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Report

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

on the proposal from the Commission of the European Communities to the  
Council (Doc. 462/77) for a regulation amending Regulation (EEC) No 1192/69  
on common rules for the normalization of the accounts of railway undertakings

Rapporteur: Mr K. NYBORG

1.2.1



By letter of 23 December 1977 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 amending Regulation (EEC) No. 1192/69 on common rules for the normalization of the accounts of railway undertakings.

The President of the European Parliament referred this proposal to the Committee on Regional Policy, Regional Planning and Transport as the committee responsible.

On 26 January 1978 the Committee on Regional Policy, Regional Planning and Transport appointed Mr Nyborg rapporteur.

It considered this proposal at its meeting of 24 May 1978 and unanimously adopted the motion for a resolution and the explanatory statement at the same meeting.

Present: Lord Bruce of Donington, chairman; Mr Nyborg, vice-chairman and rapporteur; Mr McDonald and Mr Durand, vice-chairmen; Mr Brugger, Mrs Ewing, Mr Fuchs, Mr Hoffmann, Mr Jung, Mr Mascagni, Mr Seefeld and Mr Starke.

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The Committee on Regional Policy, Regional Planning 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 regulation amending Regulation (EEC) No. 1192/69 on common rules for the normalization of the accounts of railway undertakings

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council<sup>1</sup>,
  - having been consulted by the Council pursuant to Article 75 of the EEC Treaty (Doc. 462/77),
  - having regard to the report of the Committee on Regional Policy, Regional Planning and Transport (Doc. 142/78),
1. Reiterates its previous position<sup>2</sup> expressing the desirability, in order to prevent distortions of competition, of extending the scope of Regulation No. 1192/69<sup>3</sup> to all railway undertakings operating in comparable circumstances to national railway companies;
  2. Is of the opinion that the proposed amendments may lead to greater transparency in the accounts of railway undertakings;
  3. Wishes to take this opportunity of requesting the Commission to draw up further proposals aimed at placing the finances of railway undertakings on a sounder footing and at bringing about closer cooperation between national railway companies;
  4. Approves the Commission's proposal.

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<sup>1</sup> OJ No. C 307, 21.12.1977, p.5

<sup>2</sup> OJ No. C 37, 4.6.1973, p.54

<sup>3</sup> OJ No. L 156, 28.6.1969, p.8

EXPLANATORY STATEMENTI. GENERAL COMMENTS

1. It is a well-known fact that national governments impose a considerable number of burdens on their railway undertakings while at the same time extending benefits to them; clearly, this influences the conditions of competition between the various modes of transport. To eliminate distortions of competition the Council adopted on 13 May 1965 a decision on the harmonization of certain provisions affecting competition in transport by rail, road and inland waterway<sup>1</sup>. This decision, which bears the reference number 65/271, makes a distinction between the obligations inherent in the concept of a 'public service' imposed by governments, and the other forms of state intervention which - unlike the first category of obligations - apply solely to rail transport.
2. To implement its decision of 1965 in respect of the second category of obligations only, the Council promulgated on 26 June 1969 a regulation on common rules for the normalization of the accounts of railway undertakings<sup>2</sup>. The aim of Regulation No. 1192/69 was, pending the achievement of equality of treatment for transport by road, rail and inland waterway, both to terminate at an early date certain specific burdens and benefits in respect of rail transport and to provide financial compensation on a temporary basis for railway companies in respect of other classes of burdens and benefits.
3. The distinction made in the decision of 1965 and the term 'normalization of accounts' often give rise to confusion. A word of explanation is therefore required.

The concept of 'public service' signifies a state obligation on transport undertakings to operate certain uneconomic routes because they are considered indispensable for social and economic reasons.

The concept of the 'normalization of accounts' arouses the false impression that what is intended is the standardization or normalization of

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<sup>1</sup> OJ No. 88, 24.5.1965, p. 1500/65

<sup>2</sup> OJ No. L 156, 28.6.1969, p.8

bookkeeping methods<sup>1</sup>. In fact this term has a dual significance: in the first place it means determining by accounting methods the losses borne or benefits enjoyed by railway undertakings by reason of any provision laid down by law, regulation or administrative action that applies solely to rail transport; secondly, it means payment of financial compensation in respect of losses thus incurred or benefits thus enjoyed.

4. In Regulation No. 1192/69 the Council has listed 15 categories of burdens and benefits that apply solely in respect of railway companies and accordingly do not apply to any other transport undertakings. A number of burdens and benefits should have been abolished by 1 January 1971 and 1 January 1973 respectively, and for the remaining categories there was provision for compensation in specific circumstances and according to specific criteria. The following section will concern itself in greater detail with these classes of burdens and obligations.

5. The Transport Committee, (as it was known then), of the European Parliament drew up a detailed report on the proposal from the Commission of the European Communities which formed the basis of this Regulation<sup>2</sup>.

## II. COMMENTS ON THE PROPOSED AMENDMENTS

### (a) Article 1 (field of application)

6. The 1969 Regulation applies solely to the national railway companies. It is now proposed that its scope should be extended to include other railway undertakings insofar as they effect international transport operations and are subject to burdens comparable with those of the national railway companies.

Bearing in mind the aforementioned Council Decision of 1965 on the conditions of competition, a proposal on these lines, which solely concerns those railway undertakings that are not subject to the same rules as apply to the national railways, thus causing distortion of competition, seems justified.

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<sup>1</sup> This subject-matter was recently examined by the committee on the occasion of the Osborn reports, viz. the report on the proposal for a regulation on the necessary measures to achieve comparability between the accounting systems and annual accounts of railway undertakings (Doc. 144/77), and the report on the proposal for a regulation laying down uniform costing principles for railway undertakings (Doc. 287/77).

<sup>2</sup> See the Faller report (Doc. 150/69), OJ No. C 135, 14.12.1968, p.34.

7. In conformity with Article 3(2) of the Regulation in question the Commission submitted to the Council before 1 January 1973 a proposal for a regulation supplementing Regulation No. 1192/69 (Doc. 276/72). In the explanatory memorandum on its proposal the Commission pointed out that, while it was true that the Regulation in question had eliminated some distortions of competition affecting these undertakings, it had at the same time allowed to continue or even created other distortions to the detriment of railway undertakings for the time being outside the scope of the Regulation. Consequently, railway undertakings which were in an analogous position to national railway companies both as regards their structure and organization and as regards the burdens imposed or benefits accorded by governments should, in the interests of fair competition, also be subject to the same rules. On the basis of the report by Mr Schwabe (Doc. 23/73) the European Parliament approved this proposal, rightly taking the view that comparable situations should be subject to similar rules. The Economic and Social Committee also delivered a similar opinion, although it advocated further extension of the scope of the Regulation. The Council has, however, at no time been able to reach agreement on this proposal.

8. The Committee on Regional Policy, Regional Planning and Transport endorses the proposed amendment and requests the Council to take action accordingly.

(b) Article 2 (Classes V, VI and VII)

9. As already indicated above, the 1969 Regulation provided for the termination, at the latest by 1 January 1971, of three categories of burdens and benefits (Article 4(2)). The categories concerned were as follows:

- (i) the obligation upon railway undertakings alone to recruit staff surplus to their requirements (Class V);
- (ii) backdated increases in wages and salaries imposed by the government of a Member State, except where such increases are made for the sole purpose of bringing the wages and salaries paid by railway undertakings into line with the wages and salaries paid elsewhere in the transport sector (Class VI);
- (iii) delay imposed by the competent authorities with regard to renewals and maintenance (Class VII).

The second proposed amendment is designed to give the Member States the power to impose these burdens on their railways where exceptional economic and social circumstances so require. In such cases, fair compensation must be paid.



10. The committee has no objections to this proposed amendment provided that these powers are resorted to only in exceptional circumstances.

(c) Article 3 (Classes IX to XV)

11. Article 4(4) of Regulation No. 1192/69 stipulates that the Council, in implementation of Article 8 of its Decision of 1965 on the conditions of competition, must adopt a final settlement of the position as regards the following seven categories of burdens and benefits:

- (i) the obligation to retain staff surplus to the requirements of the undertaking (Class IX);
- (ii) measures benefiting staff, in recognition of certain services rendered to their country, imposed on railway undertakings by the State on terms different from those applicable to other transport undertakings (Class X);
- (iii) allowances payable to staff imposed on railway undertakings and not on other transport undertakings (Class XI);
- (iv) expenditure of a social character incurred by railway undertakings, in respect in particular of medical treatment, different from that which they would bear if they had to contribute on the same basis as other transport undertakings (Class XII);
- (v) financial burdens devolving upon railway undertakings in consequence of their being required by the State to keep in operation works or other establishments in circumstances inconsistent with operation on a commercial basis (Class XIII);
- (vi) conditions imposed in respect of the placing of public contracts for works and supplies (Class XIV);
- (vii) capital and interest burdens borne as a result of lack of normalization in the past (Class XV).

Unfortunately nothing has come of this because the Council has once again been unable to reach agreement on the relevant proposal. A proposal was in fact submitted to the Council by the Commission in mid-1971 and it provided for the removal or compulsory compensation of burdens under Classes IX, X, XI, XII and XV, the eventual elimination of Class XIII and the compulsory normalization of Class XIV (cf. page 4 of the proposal). The European Parliament approved this proposal without amendment on the basis of the report by Mr Faller (Doc. 49/72).

12. For various reasons the Commission considered it appropriate to revise its original proposal (dating from 1971). The proposal now is to eliminate Classes XIV and XV and to pay compensation in respect of the other five categories, if after investigation and consultation with the railway undertakings it transpires that it is desirable to maintain these arrangements.

13. The Committee on Regional Policy, Regional Planning and Transport takes the view that the elimination of Classes XIV and XV is justified in view of the fact that use has never been made of the first category and in view also of the fact that the question of loans (Class XV) has in the meantime been resolved by Article 5 of the Council Decision of 20 May 1975 on the improvement of the situation of railway undertakings and the harmonization of rules governing financial relations between such undertakings and States<sup>1</sup>. As is only logical, the Annexes relating to the two categories are to be repealed (Annexes XIV and XV).

(d) Article 4 (pension costs)

14. This article proposes modifying the Annex to Regulation No. 1192/69 relating to Class III. In the Regulation this class is defined as follows: 'payments in respect of retirement and other pensions borne by railway undertakings on terms different from those applicable to other transport undertakings'.

As provided for in the Regulation, the Commission drew up in 1972 a report on the compensation payments to be made in respect of Class III. Although in receipt of this report, the Council has once again failed to take a decision. This document shows that compensation payments can be calculated using three different methods and the Commission therefore now proposes that the principles of calculation should be simplified and more closely coordinated.

15. Having regard to the efforts to place the finances of railway undertakings on a sound footing and in the interests of the harmonization of the conditions of competition, the Committee on Regional Policy, Regional Planning and Transport also welcomes this proposed amendment as it stands.

CONCLUSIONS

16. The committee can endorse as they stand the specific amendments contained in the present proposal for a regulation in view of the fact that they signify a step forward towards greater transparency in the finances of railway undertakings and in view also of the fact that they show an awareness of the social and economic realities.

<sup>1</sup> OJ No. L 152, 12.6.1975, p.3

17. The Committee on Regional Policy, Regional Planning and Transport would however like to take this opportunity to point out that the proposed amendments under consideration are only of marginal importance as regards the central problem of placing the finances of national railway companies on a sound footing. In the committee's view, priority must be given in this sector - within the meaning of the Council Resolution of 7 December 1970<sup>1</sup> - to improving the financial situation of railway companies and to achieving closer cooperation between national railway undertakings.

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<sup>1</sup> OJ No. C 5, 19.1.1971, p.1

