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Report

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. 324/75/III) for a directive on access to the occupation of carrier of goods or of passengers by waterway in national and international transport

Rapporteur: Mr Paul DE CLERCQ

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By letter of 21 October 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 directive on access to the occupation of carrier of goods or of passengers by waterway in national and international transport.

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

On 10 December 1975 the Committee on Regional Policy and Transport appointed Mr de Clercq rapporteur. The newly constituted Committee on Regional Policy, Regional Planning and Transport considered this proposal at its meeting of 28 April 1976.

At the same meeting the committee adopted the motion for a resolution and the explanatory statement unanimously with two abstentions.

Present: Mr Evans, chairman; Mr Nyborg and Mr McDonald, vice-chairmen; Mr De Clercq, rapporteur; Mr Albers, Mr Ellis, Mr Giraud, Mrs Kellett-Bowman, Mr Mursch, Mr Knud Nielsen, Mr Osborn and Mr Seefeld.

The opinion of the Committee on Economic and Monetary Affairs is attached.

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A

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 directive on access to the occupation of carrier of goods or of passengers by waterway in national and international transport.

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. 324/75/III),
 - having regard to the report of the Committee on Regional Policy, Regional Planning and Transport and the opinion of the Committee on Economic and Monetary Affairs (Doc. 90/76),
1. Notes with satisfaction that the Council directives of 1974 on admission to the occupations of road haulage operator and road passenger transport operator in national and international transport operations² are now being supplemented by a similar proposal for inland waterway transport;
 2. Considers it desirable, given the close connection between the present proposal and the Commission's proposal for a directive on mutual recognition of diplomas, certificates and other evidence of formal qualifications for road or waterway passenger transport and goods haulage operators, including measures to promote freedom of establishment, for both proposals to be adopted simultaneously by the Council;
 3. Also calls for greater account to be taken of the question of controlling capacity limits in inland waterway transport and urges the Council to take supplementary measures as soon as possible, on the basis of the relevant Commission proposals of 1967;
 4. Warns that the adoption by national authorities of widely divergent provisions may lead to a distortion of competition and disturb the transport market and equilibrium;
 5. Approves the Commission's proposal.

¹ OJ No. C 1 of 5.1.1976, p. 31

² OJ No. L 308 of 19.11.1974, pp. 18 and 23

EXPLANATORY STATEMENT

1. The present Commission proposal constitutes a supplement to the existing Council directives of 12 November 1975 on admission to the occupation of road haulage operator (Directive 74/561) and road passenger transport operator (Directive 74/562) in national and international transport operations¹ in the form of a similar directive for inland waterway transport. In formulating its proposals, the Commission has tried as far as possible to introduce the same safeguards as for road transport, and the text does in fact correspond broadly to that of the abovementioned Council directives. In the interests of healthy competition between road transport and inland waterway transport, analogous provisions should apply to both types of transport.

In 1968, the European Parliament delivered a favourable opinion on the Commission proposals for these directives on the basis of the reports by Mr JOZEAU-MARIGNE (Doc. 25/68) on goods carriage and Mr BOERTIEN (Doc. 186/68) on passenger transport.

2. The purpose of the draft directive is to bring about a structural improvement of the profession of inland waterway carrier by raising the level of professional competence and the standard of the transport services provided. It is hoped that this will also lead to a rationalization of the transport market.

The second recital of the proposal states that the measures to coordinate the conditions for access to the occupation of carrier should also promote the actual exercise of the right of establishment.

3. In view of the close connection between the Council directives of 1974 and the present proposal on the one hand and the proposal for a Council directive on the mutual recognition of diplomas, certificates and other evidence of formal qualifications for road or waterway passenger transport and goods haulage operators, including measures intended to encourage these operators effectively to exercise their right to freedom of establishment (Doc. 324/75/IV) on the other, on which Mr ALBERS was appointed rapporteur on 10 December 1975, it would seem advisable for the Council to consider and adopt the two proposals simultaneously.

¹ OJ No. L 308 of 19.11.1974, pp. 18 and 23.

4. As far back as 1967 the Commission submitted to the Council a proposal for a regulation on access to the market in the transport of goods by waterway (Doc. 166/67), on which Mr DE GRUYSE drew up a detailed report on behalf of the Committee on Transport (Doc. 116/68).

As the Commission itself mentions in its explanatory memorandum, the provisions on admission to the **occupation** of waterway carrier contained in the draft regulation of 1967, on which the Council to this day has not taken any decision, will be replaced by the present draft directive in order to bring the measures for road transport and inland waterway as much into line as possible.

5. The first condition given for access to the occupation of waterway carrier is probity, which means that the carrier must not have been convicted of any criminal offence. The Member States will have to determine which offences will disqualify a person from this profession.

The second condition required of would-be carriers is suitable financial standing, i.e. the candidate must be solvent. Financial standing here means having the resources necessary for the launching and sound management of transport undertakings.

6. The draft regulation of 1967, on which Mr DE GRUYSE drew up a report, was much more explicit on the question of financial standing. Article 4 laid down that this condition implied having financial resources amounting to at least 60% of the market value of the inland waterway vessels to be used. This meant that not more than 40% of the market value of these vessels should be mortgaged.

The last condition is that of professional competence, i.e. the knowledge required of the would-be carrier in respect of the subjects mentioned in the annex. Such knowledge may be acquired either by attendance at courses or by practical experience, or by a combination of both. The Member States are bound to recognize as proof of professional competence the certificate issued by the competent authorities or bodies of the country of origin of the carrier or the country from which he has come.

7. The Committee on Regional Policy, Regional Planning and Transport notes with regret that it is left to the Member States, pending future coordination, to lay down the provisions to be satisfied as regards probity. This stems from the impossibility of immediate harmonization of criminal law in the Member States.

8. The criteria for probity and financial standing are laid down in the proposal concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications for transport operators and the right to freedom of establishment (Doc. 324/75/IV).

Under Articles 3 and 4 of this draft directive, proof of good repute and financial standing shall consist of:

- an extract from a judicial record or failing this, an equivalent document issued by the competent judicial or administrative authority of the country of origin of the transport operator, or the country from which he has come,
- a sworn statement or a solemn declaration made in the presence of a competent legal or administrative authority or a qualified professional body or, where necessary, in the presence of a notary of the country of origin of the candidate or the country from which he has come,
- a certificate from a bank of the country of origin of the applicant, or the country from which he has come.

In his report, Mr ALBERS suggests that the certificate from a bank should be deleted, since it does not constitute a sufficient guarantee of solvency, and replaced by declarations made by a Chamber of Commerce or other authorized bodies in the country of origin of the transport operator or the country from which he has come.

9. The European Parliament and its transport committee have repeatedly emphasized that the capacity problem must be solved if the equilibrium of the transport market is to be preserved.

Bearing in mind the correlation between the conditions for access and for freedom of establishment on the one hand and the regulation of capacity on the other, the committee deplores the fact that the measures adopted by the Council are inadequate.

10. The report by Mr ALBERS (Doc. 91/76 paragraphs 10 and 11) also deals with the capacity problem, which is particularly serious in this transport sector and last year caused a crisis in Belgium and the Netherlands.

11. Your committee agrees with the provisions contained in Article 6 (1) of the proposal to the effect that the competent authorities must indicate their reasons for rejecting an application for access to the occupation.

The committee also endorses the provisions of Article 6 (2) (3) concerning the conditions under which authorizations may be withdrawn and the legal security guaranteed to carriers or would-be carriers.

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

Letter of 19 March 1976 from Mr Paul De Keersmaeker, draftsman of an opinion, to Mr John Evans, chairman of the Committee on Regional Policy, Regional Planning and Transport

Dear Mr Chairman,

At its meeting of 18 and 19 March 1976 the Committee on Economic and Monetary Affairs considered the proposal contained in Document 324/75 for a Directive on access to the occupation of carrier of goods or of passengers by waterway in national and international transport.

This proposal, which is intended to promote the actual exercise of the right of establishment and improve the standard of carriers, is likely to help to place the market on a sounder footing and improve the quality of the service performed, in the interests of users, carriers and the economy as a whole. For these reasons it was approved by the Committee on Economic and Monetary Affairs.

I would ask you to consider this letter as the opinion for your committee adopted unanimously,¹ on this proposal for a directive (Doc. 324/75).

(sgd.) Paul De KEERSMAEKER
(Draftsman of opinion)

¹ Present: Mr van der Hek, chairman; Sir Brandon Rhys Williams, vice-chairman; Lord Ardwick, Mr Artzinger, Mr Burgbacher, Mr Clerfayt, Mr Deschamps, Mr Dykes, Lord Gordon Walker, Mr Lange, Mr Leonardi, Mr Van der Mei, Mr Mitterdorfer, Mr Nyborg, Mr Prescott and Mr Suck.