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EUROPEAN COMMISSION

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OPINION OF THE COMMISSION

**pursuant to Article 294, paragraph 7, point (c) of the Treaty on the Functioning of the
European Union,
on the European Parliament's amendment
to the Council's position regarding the
proposal for a**

**REGULATION OF THE EUROPEAN PARLIAMENT
AND OF THE COUNCIL**

**concerning the rights of passengers in bus and coach transport and amending
Regulation (EC) No 2006/2004**

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1. BACKGROUND

Date on which the proposal was sent to Parliament and the Council: 5 December 2008

Date of Parliament's opinion at first reading: 23 April 2009

Opinion of the European Economic and Social Committee: 16 July 2009

Date of unanimous adoption of the Council position: 11 March 2010

Date of Parliament's opinion at second reading: 6 July 2010

2. PURPOSE OF THE PROPOSAL

The legislative proposal aims at establishing sets of rights for passengers using bus and coach on both domestic and cross-border routes. Rights include minimum rules on information for all passengers before and during their journey, liability in case of road accidents, assistance and compensation in the event of interruptions of journeys, measures in the event of delays and specific assistance for persons with reduced mobility. Like in existing legislation for the air and rail sectors, the proposal foresees independent national bodies for settlement of disputes.

3. OPINION OF THE COMMISSION ON THE AMENDMENTS BY THE EUROPEAN PARLIAMENT

3.1 Summary of the Commission's position

The European Parliament adopted 50 amendments. The Commission can accept 5 amendments as they stand (11, 20, 33, 37, 38), 3 amendments in principle which would simply delete some provisions in the Council Position (15, 16 and 50) and 39 amendments with redrafting (1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 17, 18, 19, 22, 23,

24, 25, 26, 27, 28, 29, 30, 31, 32, 34, 39, 40, 41, 42, 44, 45, 46, 47, 48, 49, 51). The Commission rejects amendment 21, 35 and 36.

The Commission welcomes the efforts made by the EP to enhance the provisions that are capable of lifting up the level of protection of the Passenger compared to the Council Position. On many issues the amendments voted by the EP deviate from the Council Position. However, the Commission is convinced that a compromise can be found in conciliation.

3.2 Parliament's amendments at second reading

3.2.1 Amendments Accepted

The Commission accepts amendments 11, 20, 33, 37, 38.

The amendments provide clarifications in recitals (recital 17), definitions (of 'carrier', Art 3 g) and provisions on delays (Art 14 (1) b point I, Art 19 (1) and 19 (1) a), which improve either the quality of the legal text or constitutes improvements in the level of passenger protection.

3.2.2 Amendments accepted subject to rewording or in principle

Scope

The Commission accepts the amendments related to the scope of the Draft Regulation (Art 2) which compared to the Council Position limit the possibility of Member States to exempt passenger rights for certain types of services such as domestic services and local services (i.e. urban, suburban and regional services) and which limit the duration in time of such exemptions as they improve the protection of passengers. However, in order to ensure clarity, coherence and legal certainty the following amendments would require redrafting: 1, 13, 14, 17, and 18.

The Commission can accept Amendments 15 and 16 (deletion of the possibility for Member States to exempt from the scope domestic as well as international services if a significant part is provided outside the EU) in order to ensure a wide application of this passenger rights legislation. However, in view of reaching a compromise with the Council the Commission acknowledges that a wider scope of application can probably only be achieved through a more flexible approach, i.e. the possible exemption of the abovementioned services but through a longer list of non-exemptible articles in Art 2(5) than the limited one proposed by the Council.

Compensation and assistance in the event of accidents

The Commission accepts the amendments related to Compensation and assistance in the event of accidents that improve the protection of passengers compared to the Council Position. However, the following amendments would require significant redrafting in order to render them compatible with existing liability legislation for motor vehicles and thus to find an agreement with the Council: 2, 3, 4, 22, 23, 24 and 25.

Disabled persons and persons with reduced mobility

The Commission accepts the amendments related to disabled persons and persons with reduced mobility that improve the provisions concerning their accessibility to bus and coach services compared to the Council Position. However, the following amendments require redrafting in order to ensure clarity, coherence and legal certainty: 5, 6, 7, 8, 9, 18, 19, 26, 27, 28, 29, 30, 31, 32, 34 and 51.

Cancellation or delay

The Commission accepts the amendments related to passenger rights in the case of cancellation or delays of bus and coach services that improve the protection of passengers for instance in terms of better conditions for compensation and assistance. However, the following amendments require redrafting in order to ensure clarity, coherence and legal certainty: 10, 39, 40, 41 and 42.

The Commission can accept amendment 44 in principle (new Art 22 a setting an obligation for carriers to cooperate with relevant stakeholders to be able to improve care for passengers). However, in view of reaching a compromise with the Council the Commission acknowledges that a more flexible approach to this cooperation obligation imposed to operators may be needed.

Information

The Commission accepts the amendments related to the provision of information about the transport services and their execution as well as about the rights of passengers that constitute improvements for travellers compared to the Council Position. However, the following amendments require redrafting in order to ensure clarity, coherence and legal certainty: 12, 45, and 46.

Complaint handling and enforcement

The Commission accepts the amendments related to the conditions of establishment of complaint handling mechanisms and of national enforcement bodies that enhance coverage of passenger protection and facilitates lean administrative structures. However, the following amendments require redrafting in order to ensure clarity, coherence and legal certainty: 47, 48, and 49.

The Commission can accept amendment 50 in principle: Art 27(3) extending the scope of independent complaint handling schemes to Art 5 to 7 of this Regulation. However, in view of reaching a compromise with the Council the Commission acknowledges that a more flexible approach to this provision may be needed to ensure legal consistency between national law and EU law, thus excluding Art 7 from the scope of Art 27(3) as Art 7 refers to national liability legislation whose legal review procedures may diverge from the procedural timelines defined in this Regulation.

3.2.3 Amendments rejected

The Commission rejects Amendment 21 (definition of tour operator in Art 3 k) as the deletion of the reference to 'retailer' in the definition would neither fit into the legal architecture of this draft Regulation nor be consistent with existing passenger rights legislation such as Regulations 1107/2006 and 1371/2007.

The Commission rejects amendments 35 and 36 which aim at deleting Art 18(1) and (2) which give Member States the possibility to exempt domestic regular services from the application of provisions in Chapter III of this Regulation, if they ensure that the level of protection of disabled persons and persons with reduced mobility is at least the same as under the Regulation. The provisions in Art 18(1) and (2) are useful as they provide Member States with the necessary flexibility to maintain, where applicable, a higher level of protection at national level, whilst ensuring that at least the same level of protection as the one foreseen by the Regulation is achieved in the other Member States.