

Passenger transport by rail, road, inland waterway: competition, public service exigences and contracts (repeal. Regulations (EEC) No 1191/69 and (EEC) No 1107/70)

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The committee adopted the report by Erik MEIJER (GUE/NGL, NL) amending the Council's common position under the 2nd reading of the codecision procedure:

- Member States should be able to apply the regulation to public passenger transport "by national sea waters";
- the committee reinstated the definition of 'internal operator' as laid down by the Commission in its modified proposal of July 2005;
- the competent authorities should ensure that public service operators are not under-compensated for any losses incurred through complying with public service obligations;
- to avoid over-compensation, "the operator's actual costs shall be deemed to be costs incurred in discharging the public service obligations only if a typical, well-run operator would have incurred these costs in discharging the obligation in question";
- to ensure that railway operators have the financial stability they need to provide public services, contracts should be awarded for a minimum duration of 3 years;
- competent authorities should be able inter alia to penalise or terminate contracts "when operators fail to meet the quality of service or service levels required under the contract";
- where subcontracting takes place, the firm entrusted with a public service contract should be required to perform the majority of the public passenger transport services itself;
- in the case of directly awarded public service contracts, the competent authority shall provide adequate reasons for its decision to award the contract directly;
- whereas the Council had allowed for public service contracts to be awarded directly to SMEs "operating not more than 20 vehicles", the committee changed this to SMEs "employing between 50 and 250 employees". It also said that the average annual value of such contracts could be up to EUR 3 million, rather than EUR 1.7 million as proposed by Council, or could concern the annual provision of up to 1 000 000 km of public passenger transport services rather than up to 500 000 km as proposed by Council;
- the aggregated report on public service obligations which must be published each year by the competent authorities should distinguish between bus transport, rail transport and rail infrastructure and provide information on the type and extent of exclusive rights that have been granted;
- the award of public service contracts by road and by rail should comply with the new regulation within 8 years, rather than 12 years as proposed by the Council;

- the transitional period during which certain types of contracts may continue should be shortened from 30 years to 15;
- the committee introduced a new clause (Article 8a) allowing for the possibility to appeal against decisions with regard to the award of contracts;
- the regulation should enter into force within 18 months rather than 3 years.