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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 1073/2009 on common rules for access to the international market for coach and bus services - Outcome of the European Parliament's first reading, (Strasbourg, 11 to 14 February 2019)

I. INTRODUCTION

The rapporteur, Roberts ZILE (ECR, LV), presented a report on the proposal for a Regulation on behalf of the Committee on Transport and Tourism. The report contained 76 amendments (amendments 1 - 76) to the proposal.

In addition, the political groups tabled the following amendments: S&D tabled one amendment (amendment 83), Greens/EFA two amendments (amendments 77-78) and GUE/NGL five amendments (amendments 85-89). Five amendments were tabled by more than 38 MEPs (amendments 79-82 and 84).

II. VOTE

When it voted on 14 February 2019, the Parliament adopted the following amendments : 1-70, 72-76 and 83.

The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto¹.

¹ The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

Common rules for access to the international market for coach and bus services
*****I**

European Parliament legislative resolution of 14 February 2019 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/2009 on common rules for access to the international market for coach and bus services (COM(2017)0647 – C8-0396/2017 – 2017/0288(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2017)0647),
 - having regard to Article 294(2) and Article 91(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0396/2017),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Irish Houses of the Oireachtas, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee of 19 April 2018²,
 - having regard to the opinion of the Committee of the Regions³,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A8-0032/2019),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

² OJ C 262, 25.7.2018, p. 47

³ OJ C 387, 25.10.2018, p. 70

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) The application of Regulation (EC) No 1073/2009 of the European Parliament and of the Council¹⁷ has revealed that operators in national markets are facing obstacles to the development of inter-urban coach services. Moreover, road passenger transport services have not kept pace with the evolving needs of citizens in terms of availability and quality and sustainable transport modes continue to have a low modal share. As a consequence, certain groups of citizens are placed at a disadvantage in terms of availability of passenger transport services, and there are more road accidents, emissions *and* congestion due to greater use of cars.

¹⁷ Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006 (OJ L 300, 14.11.2009, p. 88).

Amendment

(1) The application of Regulation (EC) No 1073/2009 of the European Parliament and of the Council¹⁷ has revealed that *some* operators in national markets are facing *unjustified* obstacles to the development of inter-urban coach services *of benefit to passengers*. Moreover, road passenger transport services have not kept pace with the evolving needs of citizens in terms of availability and quality and sustainable transport modes continue to have a low modal share. As a consequence, certain groups of citizens are placed at a disadvantage in terms of availability of passenger transport services, and there are more road accidents, emissions, congestion *and increased infrastructure costs* due to greater use of cars.

¹⁷ Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006 (OJ L 300, 14.11.2009, p. 88).

Amendment 2

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) To ensure a coherent framework for

Amendment

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the inter-urban carriage of passengers by regular coach and bus services throughout the Union, Regulation (EC) No 1073/2009 should apply to all inter-urban carriage by regular services. The scope of that Regulation should therefore be extended.

the inter-urban carriage of passengers by regular coach and bus services throughout the Union, Regulation (EC) No 1073/2009 should apply to all inter-urban carriage by regular services. The scope of that Regulation should therefore be extended, ***but should not be applied to urban or suburban centres or conurbations and should be without prejudice to the provisions of Regulation (EC) No 1370/2007.***

Amendment 3

Proposal for a regulation Recital 3

Text proposed by the Commission

(3) An independent and impartial regulatory body should ***be designated in each Member State*** to ensure the proper functioning of the road passenger transport market. That body may also be responsible for other regulated sectors such as rail, energy or telecommunications.

Amendment

(3) ***Each Member State*** should ***designate*** an independent and impartial regulatory body, ***with the task of issuing binding opinions***, to ensure the proper functioning of the road passenger transport market. That body may also be responsible for other regulated sectors such as rail, energy or telecommunications.

Amendment 4

Proposal for a regulation Recital 4

Text proposed by the Commission

(4) Commercial regular service operations should not compromise the economic equilibrium of existing public service contracts. For this reason, the regulatory body should be able to carry out an objective economic analysis to ensure that this is the case.

Amendment

(4) Commercial regular service operations should not compromise the economic equilibrium of existing ***or granted*** public service contracts ***in accordance with Regulation 1370/2007.*** For this reason, the regulatory body should be able to carry out an objective economic analysis ***and should have the authority,***

where appropriate, to propose measures necessary to ensure that this is the case. Commercial regular service operations should not compete with transport providers who have been granted exclusive rights to provide certain public passenger transport services in return for the discharge of public service obligations within the framework of a public service contract.

Amendment 5

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) Regular services in the form of cabotage operations should be conditional on the possession of a Community licence. In order to facilitate effective controls of those services by enforcement authorities, the rules regarding the issuing of Community licences should be clarified.

Amendment

(5) ***The operation of*** regular services in the form of cabotage operations should be conditional on the possession of a Community licence ***and the use of a smart tachograph in accordance with Chapter II of Regulation (EU) No 165/2014 of the European Parliament and of the Council.*** In order to facilitate effective controls of those services by enforcement authorities, the rules regarding the issuing of Community licences should be clarified ***and the Internal Market Information System (IMI) module developed for the sending of posting declarations and electronic applications, enabling the inspectors carrying out the roadside checks to have direct real-time access to data and information contained in the European Register of Road Transport Undertakings (ERRU) and in the IMI and so as to ensure that social contributions are actually paid for posted bus drivers.***

Amendment 6

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) In order to ensure fair competition in the market, operators of regular services should be provided with access rights to terminals in the Union on fair, equitable, non-discriminatory and transparent terms. Appeals against decisions rejecting or limiting access should be lodged with the regulatory body.

Amendment

(6) In order to ensure fair competition in the market, operators of regular services should be provided with access rights to terminals in the Union on fair, equitable, non-discriminatory and transparent terms. ***The operation of a terminal should be approved by a national authority, which should verify which requirements are necessary and which must be fulfilled.*** Appeals against decisions rejecting or limiting access should be lodged with the regulatory body. ***Member States might exclude terminals that are owned and used solely by the terminal operator for its own road passenger transport services.***

Amendment 7

Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) Authorisation for both national and international regular services should be subject to an authorisation procedure. Authorisation should be granted, unless there are specific grounds for refusal attributable to the applicant, or the service would compromise the economic equilibrium of a public service contract. A distance threshold should be introduced to ensure that commercial regular service operations do not compromise the economic equilibrium of existing public service contracts. ***In the case of routes already served by more than one public service contract, it should be possible to increase that threshold.***

Amendment

(8) Authorisation for both national and international regular services should be subject to an authorisation procedure. Authorisation should be granted, unless there are specific grounds for refusal attributable to the applicant, or the service would compromise the economic equilibrium of a public service contract. A distance threshold, ***determined by the Member States, which should in any event not exceed 100 kilometres journey distance,*** should be introduced to ensure that commercial regular service operations do not compromise the economic equilibrium of existing public service contracts.

Amendment 8

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) Non-resident carriers should be able to operate national regular services under the same conditions as resident carriers.

Amendment

(9) Non-resident carriers should be able to operate national regular services under the same conditions as resident carriers, ***as long as they have complied with road transport or other relevant provisions of national, Union and international law.***

Amendment 9

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) Administrative formalities should be reduced ***as much as*** possible without abandoning the controls and penalties that guarantee the correct application and effective enforcement of Regulation (EC) No 1073/2009. ***The journey form constitutes an unnecessary administrative burden and should therefore be abolished.***

Amendment

(10) Administrative formalities should be reduced ***where*** possible without abandoning the controls and penalties that guarantee the correct application and effective enforcement of Regulation (EC) No 1073/2009.

Amendment 10

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) Local excursions are an authorised cabotage operation and are covered by the general rules on cabotage. The article on local excursions should therefore be deleted.

Amendment

deleted

Amendment 11

Proposal for a regulation

Recital 14

(14) In order to take into account market developments and technical progress the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to amend Annexes I and II to Regulation (EC) No 1073/2009, and to supplement that Regulation with rules concerning the format of certificates for own-account transport operations, the format of applications for authorisations and authorisations themselves, the procedure and criteria to be followed to determine if a proposed service would compromise the *economic* equilibrium of a public service contract, and the reporting obligations of Member States. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in line with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making¹⁸. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as the Member States' experts, and the European Parliament and the Council experts should systematically have access to the Commission's expert group meetings dealing with the preparation of delegated acts.

¹⁸ OJ L 123, 12.5.2016, p. 1.

(14) In order to take into account market developments and technical progress the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission to amend Annexes I and II to Regulation (EC) No 1073/2009, and to supplement that Regulation with rules concerning the format of certificates for own-account transport operations, the format of applications for authorisations and authorisations themselves, the procedure and criteria to be followed to determine if a proposed service would compromise the equilibrium of a public service contract, and the reporting obligations of Member States. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in line with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making¹⁸. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as the Member States' experts, and the European Parliament and the Council experts should systematically have access to the Commission's expert group meetings dealing with the preparation of delegated acts.

¹⁸ OJ L 123, 12.5.2016, p. 1.

Amendment 12

Proposal for a regulation

Article 1 – paragraph 1 – point 1

Regulation (EC) No 1073/2009

Article 1 – paragraph 4

Text proposed by the Commission

Amendment

4. This Regulation shall apply to national road passenger services for hire or reward operated by a non-resident carrier as provided for in Chapter V.;

4. This Regulation shall apply to national ***interurban*** road passenger services for hire or reward operated by a non-resident carrier as provided for in Chapter V, ***and shall be without prejudice to the provisions of Regulation (EC) No 1370/2007.***

Amendment 83

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point b

Regulation (EC) No 1073/2009

Article 2 – paragraph 1 – point 7

Text proposed by the Commission

Amendment

(b) point 7 is replaced by the following:

deleted

‘7. ‘cabotage operation’ means a national road passenger transport service operated for hire or reward in a host Member State; ’

Amendment 13

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point c

Regulation (EC) No 1073/2009

Article 2 – paragraph 1 – point 9

Text proposed by the Commission

Amendment

9. ‘terminal’ means ***any*** facility ***with a minimum area of 600m²***, which provides

9. ‘terminal’ means ***an authorised*** facility which provides a parking place that

a parking place that is used by coaches and buses for the *setting down or picking up* of passengers;

is used by coaches and buses for the *alighting or boarding* of passengers;

Amendment 14

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point c

Regulation (EC) No 1073/2009

Article 2 – paragraph 1 – point 10

Text proposed by the Commission

10. ‘terminal operator’ means any entity responsible for *granting access to* a terminal;

Amendment

10. ‘terminal operator’ means any entity *in a Member State* responsible for *the management of* a terminal, *which meets professional competence and financial capacity requirements*.

Amendment 15

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point c

Regulation (EC) No 1073/2009

Article 2 – paragraph 1 – point 11

Text proposed by the Commission

11. ‘viable alternative’ means another terminal which is economically acceptable to the carrier, and allows *it* to operate the passenger service concerned.;

Amendment

11. ‘viable alternative’ means another terminal which is economically acceptable to the carrier *and provides comparable infrastructure and connectivity to the terminal originally applied for, allows passengers access to other forms of public transport,* and allows *the carrier* to operate the passenger service concerned *in a similar manner to the terminal originally applied for*.

Amendment 16

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point c

Regulation (EC) No 1073/2009

Article 2 – paragraph 1 – point 11 a (new)

Text proposed by the Commission

Amendment

11a. ‘public service contract’ means one or more legally binding acts confirming the agreement between a competent authority and a public service operator to entrust to that public service operator the management and operation of public passenger transport services subject to public service obligations; depending on the law of the Member State, the contract may also consist of a decision adopted by the competent authority taking the form of an individual legislative or regulatory act, or containing conditions under which the competent authority itself provides the services or entrusts the provision of such services to an internal operator;

Amendment 17

Proposal for a regulation

Article 1 – paragraph 1 – point 2 – point c

Regulation (EC) No 1073/2009

Article 2 – paragraph 1 – point 11 b (new)

Text proposed by the Commission

Amendment

11b. ‘alternative route’ means a route between the same starting point and destination taken by an existing regular service that can be used instead.

Amendment 18

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Article 3a – paragraph 1 – subparagraph 1

Text proposed by the Commission

Each Member State shall designate a **single** national regulatory body for the road passenger transport sector. That body shall be an impartial authority which is, in organisational, functional, hierarchical and decision making terms, legally distinct and independent from any other public or private entity. It shall be independent from any competent authority involved in the award of a public service contract.

Amendment

The competent authorities in each Member State shall designate a national **public** regulatory body for the road passenger transport sector. That body shall be an impartial authority which is, in organisational, functional, hierarchical and decision making terms, legally distinct, **transparent** and independent from any other public or private entity. It shall be independent from any competent authority involved in the award of a public service contract.

Amendment 19

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1073/2009

Article 3a – paragraph 1 – subparagraph 2

Text proposed by the Commission

The regulatory body may be responsible for other regulated **sectors**.

Amendment

The regulatory body may be **an existing body which is** responsible for other regulated **services**.

Amendment 20

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1073/2009

Article 3a – paragraph 2

Text proposed by the Commission

2. The regulatory body for the road passenger transport sector shall have the necessary organisational capacity in terms of human and other resources, which shall be proportionate to the importance of that sector in the Member State concerned.

Amendment

2. The regulatory body for the road passenger transport sector shall have the necessary organisational capacity in terms of human, ***financial*** and other resources ***to fulfil its duties***, which shall be proportionate to the importance of that sector in the Member State concerned.

Amendment 21

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1073/2009

Article 3a – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Without prejudice to the powers of the national competition authorities, the regulatory body shall have the power to monitor the competitive situation in the domestic market for regular passenger transport services by road, with a view to preventing discrimination or the abuse of a dominant position in the market, including through sub-contracting. Its opinions shall be binding.

Amendment 22

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1073/2009

Article 3a – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) collect and provide information on

(b) collect and provide information on

access to terminals; *and*

access to terminals *with an aim of ensuring that access to the terminals for service operators is granted under fair, equitable, non-discriminatory and transparent conditions;*

Amendment 23

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1073/2009

Article 3a – paragraph 3 – point c

Text proposed by the Commission

(c) decide on appeals against decisions of terminal operators.

Amendment

(c) decide on appeals against decisions of terminal operators; *and*

Amendment 24

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1073/2009

Article 3a – paragraph 3 – point c a (new)

Text proposed by the Commission

Amendment

(c a) create a publicly accessible electronic register, listing all authorised national and international regular services.

Amendment 25

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1073/2009

Article 3a – paragraph 4 – subparagraph 1

Text proposed by the Commission

The regulatory body may, in exercising its tasks, request relevant information from **the** competent authorities, terminal operators, applicants for authorisation and any third party involved within the territory of the Member State concerned.

Amendment

The regulatory body may, in exercising its tasks, request relevant information from **other** competent authorities, terminal operators, applicants for authorisation and any third party involved within the territory of the Member State concerned.

Amendment 26

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1073/2009

Article 3a – paragraph 4 – subparagraph 2

Text proposed by the Commission

Information requested shall be supplied within a reasonable period set by the regulatory body **and not exceeding** one month. In justified cases, the regulatory body may extend the time limit for submission of information by a maximum of two weeks. The regulatory body shall be able to enforce requests for information by means of penalties which are effective, proportionate and dissuasive.

Amendment

Information requested shall be supplied within a reasonable period set by the regulatory body, **which shall not exceed** one month. In **duly** justified cases, the regulatory body may extend the time limit for submission of information by a maximum of two weeks. The regulatory body shall be able to enforce requests for information by means of penalties which are effective, proportionate and dissuasive.

Amendment 27

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1073/2009

Article 3a – paragraph 5

Text proposed by the Commission

5. Member States shall ensure that decisions taken by the regulatory body are

Amendment

5. Member States shall ensure that decisions taken by the regulatory body are

subject to judicial review. That review may have suspensive effect only when the immediate effect of the regulatory body's decision may cause irretrievable or manifestly excessive damages for the appellant. This provision is without prejudice to the powers of the court hearing the appeal as conferred by constitutional law of the Member State concerned.

subject to ***prompt*** judicial review. That review may have suspensive effect only when the immediate effect of the regulatory body's decision may cause irretrievable or manifestly excessive damages for the appellant. This provision is without prejudice to the powers of the court hearing the appeal as conferred by constitutional law of the Member State concerned.

Amendment 28

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 1073/2009

Article 3a – paragraph 6

Text proposed by the Commission

6. Decisions taken by the regulatory body shall be made public.;

Amendment

6. Decisions taken by the regulatory body shall be made public ***within two weeks of their adoption***;

Amendment 29

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 1073/2009

Article 5a – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Where terminal operators grant access, bus and coach operators shall comply with the terminal's existing terms and conditions.

Amendment 30

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Article 5a – paragraph 2 – subparagraph 2

Text proposed by the Commission

Requests for access may be refused only on *the* grounds of lack of capacity.

Amendment

Requests for access *to terminals* may be refused only on *duly justified* grounds of lack of capacity *considerations, repeated failure to pay fees, duly documented serious and repeated infringements by the road transport operator, or other national provisions, provided they are consistently applied and do not discriminate either against particular carriers seeking access to a terminal, or their associated business models. If a request is refused, the terminal operator shall also communicate its decision to the regulatory authority.*

Amendment 31

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 1073/2009

Article 5a – paragraph 2 – subparagraph 3

Text proposed by the Commission

Where a terminal operator refuses a request for access, it *shall* indicate *any* viable alternatives.

Amendment

Where a terminal operator refuses a request for access, it *is encouraged to* indicate *best* viable alternatives *of which it is aware*.

Amendment 32

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 1073/2009

Article 5a – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Terminal operators shall publish at least the following information in ***two or more official*** languages of the Union:

Amendment

Terminal operators shall publish at least the following information in ***the respective national languages and one other official language*** of the Union:

Amendment 33

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 1073/2009

Article 5a – paragraph 3 – subparagraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) a list of all existing infrastructure and technical specifications of the terminal;

Amendment 34

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 1073/2009

Article 5a – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. Member States may exclude terminals that are owned and used solely by the terminal operator for its own road passenger transport services from the application of this Article. When considering an application for exclusion, regulatory bodies shall take into account the availability of viable alternatives.”;

Amendment 35

Proposal for a regulation
Article 1 – paragraph 1 – point 7
Regulation (EC) No 1073/2009

Article 5b – paragraph 2

Text proposed by the Commission

Amendment

2. If access cannot be granted as requested in the application, the terminal operator shall initiate consultations with all interested carriers with a view to accommodating the application.

deleted

Amendment 36

Proposal for a regulation
Article 1 – paragraph 1 – point 7
Regulation (EC) No 1073/2009

Article 5b – paragraph 3

Text proposed by the Commission

Amendment

3. The terminal operator shall take a decision on any application for access to a terminal *within two months* of the date of submission of the application by the carrier. *Decisions on* access shall *state the reasons on which they are based*.

3. The terminal operator shall take a decision on any application for access to a terminal *without delay and no later than one month* of the date of submission of the application by the carrier. *Where* access *is refused, the terminal operator* shall *justify its decision*.

Amendment 37

Proposal for a regulation
Article 1 – paragraph 1 – point 7
Regulation (EC) No 1073/2009

Article 5b – paragraph 5 – subparagraph 2

Text proposed by the Commission

The decision of the regulatory body on the appeal shall be binding. The regulatory body shall be able to enforce it by means of penalties which are effective, proportionate and dissuasive

Amendment

The decision of the regulatory body on the appeal shall be binding, ***subject to national law provisions regarding judicial review***. The regulatory body shall be able to enforce it by means of penalties which are effective, proportionate and dissuasive.

Amendment 38

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EC) No 1073/2009

Article 8 – title

Text proposed by the Commission

Authorisation ***procedure*** for the international carriage of passengers over a distance of ***less than*** 100 kilometres ***as the crow flies***

Amendment

Procedures for authorisation, ***suspension and withdrawal of authorisation*** for the international carriage of passengers over a distance of ***up to*** 100 kilometres ***journey distance***

Amendment 39

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EC) No 1073/2009

Article 8 – paragraph 1

Text proposed by the Commission

1. Authorisations shall be issued in agreement with the competent authorities of all the Member States in whose territories passengers are picked up or set down and are carried over distances ***of less than*** 100 kilometres ***as the crow flies***. The authorising authority shall send a copy of

Amendment

1. Authorisations shall be issued in agreement with the competent authorities of all the Member States in whose territories passengers are picked up or set down and are carried over distances ***defined by each Member State, up to*** 100 kilometres ***journey distance***. The

the application, together with copies of any other relevant documentation, within two weeks of receipt of the application to such competent authorities with a request for their agreement. At the same time, the authorising authority shall forward those documents to the competent authorities of other Member States whose territories are crossed, for information.

authorising authority shall send a copy of the application, together with copies of any other relevant documentation, within two weeks of receipt of the application to such competent authorities with a request for their agreement. At the same time, the authorising authority shall forward those documents to the competent authorities of other Member States whose territories are crossed, for information.

Amendment 40

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EC) No 1073/2009

Article 8 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The competent authorities of the Member States whose agreement has been requested shall notify the authorising authority of their decision within **three** months. The time limit shall be calculated from the date of receipt of the request for agreement which is demonstrated by the acknowledgement of receipt. If the competent authorities of the Member States whose agreement has been requested do not agree, they shall state the reasons.

Amendment

The competent authorities of the Member States whose agreement has been requested shall notify the authorising authority of their decision within **two** months. The time limit shall be calculated from the date of receipt of the request for agreement which is demonstrated by the acknowledgement of receipt. If the competent authorities of the Member States whose agreement has been requested do not agree, they shall state the reasons.

Amendment 41

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EC) No 1073/2009

Article 8 – paragraph 3

Text proposed by the Commission

3. The authorising authority shall take a

Amendment

3. The authorising authority shall take a

decision on the application within **four** months of the date of submission of the application by the carrier.

decision on the application within **three** months of the date of submission of the application by the carrier.

Amendment 42

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EC) No 1073/2009

Article 8 – paragraph 4

Text proposed by the Commission

4. Authorisation shall be granted unless refusal can be justified on one or more of the grounds listed in points (a) to (d) of Article 8c(2).

Amendment

4. Authorisation shall be granted unless refusal can be justified on one or more of the **objective** grounds **related to the public interest** listed in points (a) to (d) of Article 8c(2).

Amendment 43

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EC) No 1073/2009

Article 8 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. In the event that an international regular bus and coach service has compromised the economic equilibrium of a public service contract, due to exceptional reasons which could not have been foreseen at the time of granting the authorisation and which lay not in the responsibility of the owner of the public service contract, the Member State concerned may, with the agreement of the Commission, suspend or withdraw the authorisation to provide the service, after having given six months' notice to the carrier. The carrier shall have the

possibility to appeal such decision.

Amendment 44

Proposal for a regulation

Article 1 – paragraph 1 – point 10

Regulation (EC) No 1073/2009

Article 8 – paragraph 6

Text proposed by the Commission

6. After having consulted the Member States of the competent authorities which disagreed, the Commission shall, ***within four*** months from receipt of the communication from the authorising authority, take a decision. The decision shall take effect 30 days after its notification to the Member States concerned.

Amendment

6. After having consulted the Member States of the competent authorities which disagreed, the Commission shall, ***no later than two*** months from receipt of the communication from the authorising authority, take a decision. The decision shall take effect 30 days after its notification to the ***competent authorities in the*** Member States concerned.

Amendment 45

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8a – title

Text proposed by the Commission

Authorisation procedure for the international carriage of passengers over a distance of 100 kilometres ***or more as the crow flies***

Amendment

Procedures for authorisation, suspension and withdrawal of authorisation for the international carriage of passengers over a distance of ***over*** 100 kilometres ***journey distance***

Amendment 46

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Article 8a – paragraph 1

Text proposed by the Commission

1. The authorising authority shall take a decision on the application ***within*** two months of the date of submission of the application by the carrier.

Amendment

1. The authorising authority shall take a decision on the application ***without delay and no later than*** two months of the date of submission of the application by the carrier.

Amendment 47

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8a – paragraph 2

Text proposed by the Commission

2. Authorisation shall be granted unless refusal can be justified on one or more of the grounds listed in points (a) to ***(c)*** of Article 8c(2).

Amendment

2. Authorisation shall be granted unless refusal can be justified on one or more of the grounds listed in points (a) to ***(ca)*** of Article 8c(2).

Amendment 48

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8a – paragraph 3

Text proposed by the Commission

3. The authorising authority shall forward to the competent authorities of all Member States in whose territories passengers are ***picked up or set down, as***

Amendment

3. The authorising authority shall forward to the competent authorities of all Member States in whose territories passengers are ***boarding or alighting a***

well as to the competent authorities of Member States whose territories are crossed without passengers being picked up or set down, a copy of the application, together with copies of any other relevant documentation, and its assessment, for information.

copy of the application, together with copies of any other relevant documentation, and its assessment *within two weeks of receipt of the application, with a request for their agreement. The authorising authority shall also forward the relevant documents to the competent authorities of the Member States whose territories are crossed without passengers boarding or alighting*, for information.

Amendment 49

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8a – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. *If one of the competent authorities of the Member States in whose territories passengers are boarding or alighting does not agree to the authorisation for one of the reasons set out in paragraph 2, authorisation may not be granted, but the matter may be referred to the Commission within one month of receipt of its reply.*

Amendment 50

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8a – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3 b. *After having consulted the Member States of the competent authorities which disagreed, the Commission shall, within four months of receipt of the*

communication from the authorising authority, take a decision. The decision shall take effect 30 days after its notification to the Member States concerned.

Amendment 51

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8a – paragraph 3 c (new)

Text proposed by the Commission

Amendment

3 c. The Commission decision shall apply until such time as the Member States reach an agreement and the authorising authority adopts a decision on the application.

Amendment 52

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8b – paragraph 1

Text proposed by the Commission

Amendment

1. The authorising authority shall take a decision on the application ***within*** two months of the date of submission of the application by the carrier. This may be extended to ***four*** months where an analysis is requested in accordance with Article 8c(2)(d).

1. The authorising authority shall take a decision on the application ***no later than*** two months of the date of submission of the application by the carrier. This may be extended to ***three*** months where an analysis is requested in accordance with Article 8c(2)(d).

Amendment 53

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8b – paragraph 2

Text proposed by the Commission

2. Authorisations for national regular services shall be granted unless refusal can be justified on one or more of the grounds listed in points (a) to **(c)** of Article 8c(2) and, if the service is carrying passengers over a distance of **less** than 100 kilometres **as the crow flies**, Article 8c(2)(d).

Amendment

2. Authorisations for national regular services shall be granted unless refusal can be justified on one or more of the grounds listed in points (a) to **(ca)** of Article 8c(2) and, if the service is carrying passengers over a distance of **up to, but no more than** 100 kilometres **journey distance**, Article 8c(2)(d).

Amendment 54

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8b – paragraph 3

Text proposed by the Commission

3. ***The distance referred to in paragraph 2 may be increased to 120 kilometres if the regular service to be introduced will serve a point of departure and a destination which are already served by more than one public service contract.***

Amendment

deleted

Amendment 55

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Article 8c – paragraph 2 – subparagraph 1

Text proposed by the Commission

Decisions rejecting an application **or** granting authorisation with limitations shall state the reasons on which they are based.

Amendment

Decisions rejecting an application, granting authorisation with limitations, **or suspending or withdrawing authorisation** shall state the reasons on which they are based **and, where applicable, take into account the analyses of the regulatory body. The applicant or the carrier operating the service concerned shall have the possibility to appeal the decisions of the authorising authority.**

Amendment 56

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8c – paragraph 2 – subparagraph 2 – introductory part

Text proposed by the Commission

Authorisation shall be granted unless rejection can be justified on one or more of the following grounds:

Amendment

The application for authorisation may be rejected only on one or more of the following grounds:

Amendment 57

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8c – paragraph 2 – subparagraph 2 – point b

Text proposed by the Commission

(b) the applicant has not complied with national or international legislation on road transport, and in particular the conditions and requirements relating to authorisations for international road passenger services, or has committed serious infringements of Union road transport legislation in particular with regard to the rules applicable to **vehicles and** driving and rest periods for drivers;

Amendment

(b) the applicant has not complied with national or international legislation on road transport, and in particular the conditions and requirements relating to authorisations for international road passenger services, or has committed serious infringements of Union **or national or, where appropriate, regional** road transport legislation in particular with regard to the rules applicable to **vehicle technical requirements and emissions standards as well as** driving and rest periods for drivers;

Amendment 58

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8c – paragraph 2 – subparagraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(c a) the applicant has requested authorisation for a regular service to run on the same route or an alternative route, where a competent authority has granted a public service operator an exclusive right to provide certain public passenger transport services in return for the discharge of public service obligations within the framework of a public service contract in accordance with Article 3 of Regulation (EC) No 1370/2007. This ground for rejection is without prejudice to Article 8d(1 a) of this Regulation;

Amendment 59

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Article 8c – paragraph 2 – subparagraph 2 – point d

Text proposed by the Commission

(d) a regulatory body establishes on the basis of an objective economic analysis that the service would compromise the economic equilibrium of a public service contract.

Amendment

(d) a regulatory body establishes on the basis of an objective economic analysis that the service would compromise the economic equilibrium of a public service contract. ***That analysis shall assess the relevant structural and geographical characteristics of the market and the network concerned (size, demand characteristics, network complexity, technical and geographical isolation, and the services covered by the contract), and account shall also be taken of whether the new service brings better quality services or more value for money.***

Amendment 60

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8c – paragraph 2 – subparagraph 3

Text proposed by the Commission

Authorising authorities shall not reject an application solely on the grounds that the carrier offers lower prices than those offered by other road carriers ***or*** the fact that the link in question is already operated by other road carriers.

Amendment

Authorising authorities shall not reject an application solely on the grounds that the carrier ***requesting authorisation*** offers lower prices than those offered by other road carriers ***unless the regulatory authority or other relevant national bodies establish that the applicant seeking to enter the market is planning to offer services below their normal value for an extended period of time, and that in doing so it is likely to undermine fair competition. Authorising authorities shall not reject an application solely due to*** the fact that the link in question is already

operated by other road carriers.

Amendment 61

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8d – paragraph 1

Text proposed by the Commission

1. Member States may limit the right of access to the international and national market for regular services if the proposed regular service carries passengers ***over distances of less than*** 100 kilometres ***as the crow flies*** and if the service would compromise the economic equilibrium of a public service contract.

Amendment

1. Member States may limit the right of access to the international and national market for regular ***bus and coach*** services if the proposed regular service carries passengers ***up to*** 100 kilometres ***journey distance*** and if the service would compromise the economic equilibrium of a public service contract, ***or over any distance if it occurs in an urban or suburban centre or conurbation, or meets the transport needs between it and the surrounding areas, or that the applicant has not complied with road transport or other relevant provisions of national, Union or international law.***

Amendment 62

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8d – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. Where a competent authority has granted exclusive rights to an undertaking performing a public service in accordance with Article 3 of Regulation (EC) No

1370/2007, the protection of the exclusive rights shall only relate to the operation of public passenger transport services serving the same or alternative routes. That grant of exclusive rights shall not preclude the authorisation of new regular services where those services are not competing with the service provided in the public service contract, or operate on other routes.

Amendment 63

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8d – paragraph 2 – subparagraph 2

Text proposed by the Commission

The regulatory body shall examine the request and decide whether to carry out the economic analysis. It shall inform the interested parties of its decision.

Amendment

Where such a request has been received, the regulatory body shall examine the request and *may* decide whether to carry out the economic analysis *in accordance with Article 8c(2)(d) unless there are exceptional practical or other reasons justifying a decision not to do so.* It shall inform the interested parties of its decision.

Amendment 64

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8d – paragraph 3 – subparagraph 1

Text proposed by the Commission

Where the regulatory body carries out an economic analysis, it shall inform all interested parties of the results of that analysis and its conclusions *within six*

Amendment

Where the regulatory body carries out an economic analysis, it shall inform all interested parties of the results of that analysis and its conclusions *as soon as*

weeks following receipt of all relevant information. The regulatory body may conclude that the authorisation is to be granted, is to be granted subject to conditions or is to be rejected.

possible, and no later than 3 months following receipt of all relevant information. The regulatory body may conclude that the authorisation is to be granted, is to be granted subject to conditions or is to be rejected.

Amendment 65

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8 d – paragraph 5

Text proposed by the Commission

5. The Commission is empowered to adopt delegated acts in accordance with Article 26 establishing the procedure and criteria to be followed for the application of this Article.;

Amendment

5. The Commission is empowered to adopt delegated acts in accordance with Article 26 establishing the procedure and criteria to be followed for the application of this Article, *in particular in carrying out the economic analysis.*

Amendment 66

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 1073/2009

Article 8d – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. Member States may further liberalise the authorisation system for national regular services with regard to authorisation procedures and kilometre thresholds.

Amendment 67

Proposal for a regulation
Article 1 – paragraph 1 – point 13 a (new)
Regulation (EC) No 1073/2009

Article 11 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(13 a) In Article 11, the following paragraph 3a is added:

"3a. A Member State may decide to require a non-resident carrier to comply with the conditions relating to the requirement of establishment, as laid down in Regulation (EC) No 1071/2009 of the European Parliament and of the Council^{1a}, in the host Member State after authorisation for a national regular service has been granted to this carrier and before the carrier starts to operate the relevant service. Such decisions shall state the reasons on which they are based. The decision shall take into account the size and duration of the activity of the non-resident carrier in the host Member State. If the host Member State establishes that the non-resident carrier does not satisfy the requirement of establishment, it may withdraw the relevant authorisations granted to it for national regular services or suspend them until the requirement is met."

^{1a} **Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (OJ L 300, 14.11.2009, p. 51)**

Amendment 68

Proposal for a regulation
Article 1 – paragraph 1 – point 15

Article 13

Text proposed by the Commission

Amendment

(15) Article 13 is deleted;

deleted

Amendment 69

Proposal for a regulation

Article 1 – paragraph 1 – point 16

Regulation (EC) No 1073/2009

Article 15 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) occasional services ***carried out on a temporary basis;***

(b) occasional services;

Amendment 70

Proposal for a regulation

Article 1 – paragraph 1 – point 16

Regulation (EC) No 1073/2009

Article 15 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) regular services performed in accordance with this Regulation.;

(c) regular services performed in accordance with this Regulation ***by a carrier not resident in the host Member State, in the course of a regular international service in accordance with this Regulation, with the exception of transport services meeting the needs of an urban centre or conurbation, or transport needs between it and the surrounding areas. Cabotage operations shall not be***

carried out independently of that international service.

Amendment 72

Proposal for a regulation

Article 1 – paragraph 1 – point 16 a (new)

Regulation (EC) No 1073/2009

Article 16 – paragraph 1 – introductory part

Present text

1. The performance of the cabotage operations shall be subject, save as otherwise provided in Community legislation, to the laws, regulations and administrative provisions in force in the host Member State with regard to the following:

Amendment

(16a) in Article 16(1), the introductory part is replaced by the following:

"1. The performance of the cabotage operations shall be subject, save as otherwise provided in Community legislation, to ***Directive 96/71/EC of the European Parliament and of the Council^{1b}*** and the laws, regulations and administrative provisions in force in the host Member State with regard to the following:

^{1b} ***Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services (OJ L 18, 21.1.1997, p. 1)***

Amendment 73

Proposal for a regulation

Article 1 – paragraph 1 – point 17

Regulation (EC) No 1073/2009

Article 17

Text proposed by the Commission

(17) Article 17 is deleted;

Amendment

deleted

Amendment 74

Proposal for a regulation

Article 1 – paragraph 1 – point 17 a (new)

Regulation (EC) No 1073/2009

Article 17

Present text

“Article 17

Control documents for cabotage operations

1. Cabotage operations in the form of occasional services shall be carried out under cover of a journey form *as referred to in Article 12* which shall be *kept on board the vehicle and be* presented at the request of any authorised *inspecting officer*.

2. The following information shall be entered in the journey form:

- (a) the points of departure and arrival of the service;
- (b) the date of departure and the date on which the service ends.

3. The journey forms shall be supplied in books as referred to in Article 12 certified by the competent authority or body in the Member State of establishment.

4. In the case of special regular services, the contract concluded between the carrier and the transport organiser, or a certified true copy thereof, shall serve as the control document.

However, a journey form shall be filled out in the form of a monthly statement

5. The journey forms used shall be returned to the competent authority or body in the Member State of

Amendment

(17a) Article 17 is replaced by the following:

“Article 17

Control documents for cabotage operations

1. Cabotage operations in the form of occasional services shall be carried out under cover of a journey form, *on paper or in digital format*, which shall be presented at the request of any authorised *inspector*.

2. The following information shall be entered in the journey form:

- (a) the points of departure and arrival of the service;
- (b) the date of departure and the date on which the service ends.

4. In the case of special regular services, the contract concluded between the carrier and the transport organiser, or a certified true copy thereof, shall serve as the control document. However, a journey form shall be filled out in the form of a monthly statement.

5. During checks, the driver shall be allowed to contact the head office, the transport manager or any other person or

establishment in accordance with procedures to be laid down by that authority or body.

entity which may provide the requested documents."

Amendment 75

Proposal for a regulation

Article 1 – paragraph 1 – point 21

Regulation (EC) No 1073/2009

Article 28 – paragraph 1

Text proposed by the Commission

1. Each year, by 31 January at the latest, and for the first time by 31 January [...the first January following the entry into force of this Regulation] Member States shall communicate to the Commission the number of authorisations for regular services issued the previous year and the total number of authorisations for regular services valid on 31 December of that year. That information shall be given separately for each Member State of destination of the regular service. Member States shall also communicate to the Commission the data concerning cabotage operations, in the form of special regular services and occasional services, carried out during the previous year by resident carriers.

Amendment

1. Each year, by 31 January at the latest, and for the first time by 31 January [...the first January following the entry into force of this Regulation] ***the competent authorities of the*** Member States shall communicate to the Commission the number of authorisations for regular services issued the previous year and the total number of authorisations for regular services valid on 31 December of that year. That information shall be given separately for each Member State of destination of the regular service. Member States shall also communicate to the Commission the data concerning cabotage operations, in the form of special regular services and occasional services, carried out during the previous year by resident carriers.

Amendment 76

Proposal for a regulation

Article 1 – paragraph 1 – point 21

Regulation (EC) No 1073/2009

Article 28 – paragraph 5

Text proposed by the Commission

5. By [***please insert the date calculated*** 5 years after date of application of this Regulation], the Commission shall submit a report to the European Parliament and the Council on the application of this Regulation. The report shall include information on the extent to which this Regulation has contributed to a better functioning road passenger transport ***market***.

Amendment

5. By ... [5 years after ***the*** date of application of this Regulation], the Commission shall submit a report to the European Parliament and the Council on the application of this Regulation. The report shall include information on the extent to which this Regulation has contributed to a better functioning road passenger transport ***system, in particular for passengers, the bus and coach workforce and the environment.***"