



Council of the
European Union

Brussels, 4 October 2023
(OR. en)

11642/1/23
REV 1

LIMITE

TRANS 302
SOC 529
CODEC 1327

Interinstitutional File:
2023/0155(COD)

WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	ST 11642/23
No. Cion doc.:	ST 9734/23
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 561/2006 as regards minimum requirements on minimum breaks and daily and weekly rest periods in the occasional passenger transport sector – Revised Presidency compromise

In view of the meeting of the Working Group on Land Transport on 9 October 2023 (afternoon), delegations find attached a revised Presidency compromise for discussion in the meeting.

Changes to the Commission proposal are indicated in **bold underline** and ~~strikethrough~~. Changes to the initial compromise document are kept in shaded grey.

2023/0155 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 561/2006 as regards minimum requirements on minimum breaks and daily and weekly rest periods in the occasional passenger transport sector sector and as regards Member States' power to impose penalties for infringements of Regulation (EU) No 165/2014 committed in another Member State

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Good working conditions for drivers and fair business conditions for road transport undertakings are of paramount importance to create an efficient, safe and socially accountable road transport sector, ensure non-discrimination and attract qualified workers. It

¹ OJ C , , p. .

² OJ C , , p. .

is therefore essential that Union social rules on road transport are clear, proportionate, fit for purpose, easy to apply, and easy to enforce and implemented in an effective and consistent manner throughout the Union.

- (2) The rules on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods laid down by Regulation (EC) No 561/2006 of the European Parliament of the Council¹ apply to road transport operators and their drivers, regardless of whether they are involved in the carriage of passengers or goods or of whether, as regards the carriage of passengers, the transport is regular or occasional.
- (3) However, the specificities of the occasional road passenger transport sector are not shared by the road freight transport or the regular road passenger transport sector. Occasional road passenger transport is characterised by high seasonality and different lengths of time spent driving which depend on the touristic activities undertaken by passengers. It needs to accommodate unscheduled and impromptu requests from passengers in terms of additional stops and changes of the route or the schedule, wherever feasible. Occasional road passenger transport generally involves less driving time when compared to freight transport or regular bus services. In addition drivers usually sleep in hotels, and seldom drive at night. On the other hand, drivers during the working time may be subject to some additional activities, often resulting from interactions with passengers.
- (4) The ex post evaluation of Regulation (EC) No 561/2006 concluded that some of the uniform rules related to minimum breaks and rest periods do not fit the specificities of occasional road passenger transport services. Further assessments undertaken by the Commission in that respect have shown that some of the requirements of Regulation (EC) No 561/2006 on breaks and daily and weekly rest periods are unsuitable and impractical for drivers and operators engaged in the occasional road carriage of passengers, as they have a negative impact on the ability to organise efficient and high-quality occasional passenger services, on the working conditions of drivers, and consequently on road safety.

¹ Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (OJ L 102, 11.4.2006, p. 1).

- (5) Therefore, it is appropriate to adapt the requirements on minimum breaks and rest periods to fit, as well, the specific requirements of the occasional road passenger transport services. It is also appropriate to align applicable rules for national and international occasional-passenger transport services by road.
- (6) More flexible rules in the scheduling of the breaks and rest periods of drivers engaged in occasional road passenger transport services should in no way jeopardise the safety of drivers, road safety, increase the level of fatigue of drivers or lead to a deterioration in working conditions. Such flexibility, **which would apply on days with less than seven driving hours**, should therefore not alter the current rules on the total minimum breaks, on maximum driving periods per day and per week and on the maximum fortnightly driving time **The minimum requirements for working time of persons performing mobile road transport activities, as laid down in Directive 2002/15/EC of the European Parliament and of the Council¹, should also continue to apply unchanged.**
- (7) To ensure the uniform definition of occasional passenger services, it is necessary to clarify that the definition set out in Regulation (EC) No 1073/2009 of the European Parliament and of the Council² covers both national and international services. It is also appropriate to update the reference to Regulation (EC) No 1073/2009, which repealed Council Regulation (EEC) No 684/92³.
- (8) More flexibility in the scheduling of breaks for drivers engaged in occasional road passenger transport services should not prevent those drivers from taking breaks of the minimum duration necessary to enable them to rest properly. Therefore, it is appropriate to set a minimum duration for each break. Therefore, drivers engaged in occasional road passenger transport services should be allowed to split their obligatory break into ~~three~~ separate breaks of at least 15 minutes each, in addition to the other possibility of splitting a break.

¹ **Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities (OJ L 80, 23.3.2002, p. 35).**

² 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 (recast) (OJ L 300, 14.11.2009, p. 88).

³ Council Regulation (EEC) No 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus (OJ L 74, 20.3.1992, p. 1).

- (9) To ensure that greater flexibility in the scheduling of rest periods of drivers engaged in occasional road passenger transport services is not abused, it is essential to clearly delimit the scope of such flexibility and also to provide for appropriate checks. Drivers should therefore be able to postpone the start of their daily rest periods for a maximum period of 1 ~~or 2 hours~~, in cases where the driving period for that day has not exceeded 5 ~~or 7 hours~~ respectively, and should postpone the start only when carrying out journeys ~~trips~~ of 8 ~~6~~ days or longer. Such flexibility should be further limited **so that the to only one of each** derogation **may be used only once** during the period of the tour, **or twice in trips of 8 days or longer. The use of the derogation does not change the latest start time of a weekly rest period.** It should be also possible to counter check such circumstances with a printout from the recording equipment or the duty roster, in addition to the tachograph records.
- (10) Limiting the possibility to postpone the weekly rest period for up to 12 consecutive 24-hour periods exclusively to occasional international passenger services has a negative impact in terms of undistorted and fair competition between operators, especially small and medium enterprises. Occasional national passenger services might as well provide their services under the same conditions as occasional international passenger services in terms of the distance travelled or the duration or services rendered to passengers. Occasional national passenger services should therefore also benefit from such possibility.

(10a) In order to ensure that the proper use of the possibility to postpone the weekly rest period for up to 12 consecutive 24-hour periods in occasional national passenger services can be controlled, the use of such possibility should depend on a completed form ('journey form') being carried on board, which contains key information about the journey. In addition, control of that derogation should be more comprehensive and efficient. The Commission should, when reviewing the specifications of tachographs, consider registering in the tachograph the type of the carriage (goods, regular or occasional passenger services) to facilitate control, in particular in respect of journeys carried out in the past.

(10b) Regulation (EC) No 561/2006 requires Member States to lay down rules on penalties applicable to infringements of that Regulation and Regulation (EU) No 165/2014, and to ensure that they are implemented. Given that infringements on those two Regulations often occur simultaneously and that the purpose of Regulation (EU) No 165/2014 is to ensure compliance with Regulation (EC) No 561/2006, it is appropriate

that the imposition of penalties on an undertaking or a driver for an infringement detected on the territory of one Member States, but committed on the territory of another Member States, may relate to infringements of both Regulations.

(11) Since the objectives of this Regulation, namely to ensure fair competition and improve working conditions and road safety through the harmonisation of the rules on breaks and rest periods for drivers engaged in occasional road passenger transport services, cannot be sufficiently achieved by the Member States, but can rather, by reason of the nature of the objectives, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

(12) Regulation (EC) No 561/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 561/2006 is amended as follows:

(1) Article 4 is amended as follows:

(a) point (n) is replaced by the following:

‘(n) ‘regular passenger services’ means national and international services as defined in Article 2, points 2 and 3, of Regulation (EC) No 1073/2009 of the European Parliament and of the Council*;

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

(b) the following point (na) is inserted:

‘(na) ‘occasional passenger services’ means national and international occasional services as defined in Article 2, point 4, of Regulation (EC) No 1073/2009;’;

- (2) in Article 7, the following fourth paragraph is added:

‘For a driver engaged in an occasional passenger service the break referred to in the first paragraph may also be replaced by ~~three~~ breaks of at least 15 minutes each, distributed over the driving period referred to in the first paragraph, in such a way as to comply with the first paragraph, **provided that the total expected driving time for that day does not exceed 7 hours**.’;

- (3) Article 8 is amended as follows:

(a) the following paragraph 2a is inserted:

‘2a. Provided that road safety is not thereby jeopardised, a driver engaged in ~~an~~ **a single** occasional passenger service with a duration of at least ~~8~~ **6 consecutive 24 hour periods** days may derogate from paragraph 2, first subparagraph, ~~in the following ways: (a) postponing the daily rest by at most 1 hour period~~ **by taking once the daily rest period within a maximum of 25 hours after the end of the previous daily rest period or weekly rest period**, provided that the total accumulated driving time for that day has not exceeded 7 hours. **Complying with the same conditions, this derogation may be used twice in a single occasional passenger service with a duration of at least 8 consecutive 24 hour periods**. ~~;(b) postponing the daily rest period by at most 2 hours taking the daily rest period within a maximum of 26 hours after the end of the previous daily rest period or weekly rest period, provided that the total accumulated driving time for that day has not exceeded 5 hours.~~

~~Each of the derogations referred to in the first subparagraph, points (a) and (b), may be used only once during the journey referred to in the first subparagraph.~~

The driver shall indicate the **use of the** ~~reason for such~~ derogation, manually on the record sheet of the recording equipment, on a printout from the recording equipment or in the duty roster, at the latest on arrival at the destination or at the suitable stopping place.’;

(b) in paragraph 6a, the introductory phrase ~~and point (a) are~~ **is** replaced by the following:

‘By way of derogation from paragraph 6, a driver engaged in a single occasional passenger service may postpone the weekly rest period for up to 12 consecutive 24-hour periods following a previous regular weekly rest period, provided that:’;

~~(a) the service lasts at least 24 consecutive hours;’;~~

(c) in paragraph 6a, point (a) is deleted;

(d) in paragraph 6a, the following subparagraph is inserted after point (d):

The use of this derogation shall require that the driver carries a completed form ('journey form') on board of the vehicle. The journey form shall contain at least the following information:

(a) the type of service;

(b) the main itinerary;

(c) the carrier(s) involved.

For national services, the journey form applying to international service may be used, adapted to indicate its use for national service. The Commission may, by way of an implementing act, establish the format of the journey form for national services to simplify control, if appropriate. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 24(2a).'

(4) In Article 19, the first subparagraph of paragraph 2 is replaced as follows:

'2. A Member State shall enable the competent authorities to impose a penalty on an undertaking and/or a driver for an infringement of this Regulation **or of Regulation (EU) No 165/2014** detected on its territory and for which a penalty has not already been imposed, even where that infringement has been committed on the territory of another Member State or of a third country.'

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

