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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
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Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT Rules on breaks and rest periods rules in occasional bus and coach transport Accompanying the document 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

Delegations will find attached document SWD(2023) 138 final.

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COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Rules on breaks and rest periods rules in occasional bus and coach transport

Accompanying the document

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

{COM(2023) 256 final} - {SEC(2023) 197 final} - {SWD(2023) 137 final}

A. Need for action

What is the problem and why is it a problem at EU level?

Regulation (EC) No 561/2006 lays down maximum daily and weekly driving times, minimum break durations, and minimum daily and weekly rest periods for drivers. Apart from certain exceptions, the Regulation applies equally to road-transport operators and their drivers: (i) regardless of whether they are involved in the carriage of passengers or goods; and (ii) regardless of whether, if transporting passengers, the transport is regular or occasional. However, compared to freight transport, or even to regular (scheduled) passenger transport, occasional passenger transport presents specific characteristics (e.g. high seasonality) and needs related to the driver's work (e.g. meeting the impromptu and unplanned/unexpected needs of passengers and their touristic programme).

The Regulation was the subject of an ex post evaluation¹ carried out in 2017 as part of the regulatory fitness programme (REFIT). The ex post evaluation concluded that some of the rules on the organisation of breaks and rest periods may not be fit for the occasional-passenger transport sector because of the sector's distinct service needs. The impact assessment has identified two main problems: (i) the inability to organise efficient and high-quality occasional bus and coach services; and (ii) inadequate working and driving conditions for drivers in occasional bus and coach transport. The identified problems exist across the EU.

What should be achieved?

The initiative seeks to: (i) ensure efficient and high-quality occasional bus and coach services; and (ii) improve working and driving conditions for drivers, including by reducing the stress and fatigue of drivers in occasional bus and coach transport. The specific objectives are to: (i) ensure a more flexible distribution of breaks and rest periods; and (ii) promote equal treatment between international and domestic occasional bus-and-coach operations.

What is the value added of action at the EU level (subsidiarity)?

In the absence of amendments to Regulation (EC) No 561/2006, the identified problems are likely to persist, putting at risk the competitiveness and working conditions of the occasional bus-and-coach transport sector. The identified problems exist across the entire EU and have the same underlying causes. Thus, EU-level action is needed to ensure good working conditions for drivers, improve road safety, and prevent distortions of competition on the European market.

The 2017 ex post evaluation recognised the EU-added value and EU-wide positive results that came from harmonising the minimum working conditions for drivers and operators engaged in domestic and cross-border transport activities in the EU. EU-level action would contribute to achieving appropriate rules for the occasional-passenger-transport-by-road sector and also contribute to reducing the shortage of drivers. EU-level action is expected to have a positive impact on travel and tourism operators. It will enable operators and drivers to organise transport operations more efficiently while: (i) ensuring high standards for the working conditions for drivers; and (ii) enforcing the existing rules effectively and consistently across borders.

B. Solutions

What are the various options to achieve the objectives? Is there a preferred option or not? If not, why?

Three policy options (PO A, PO B and PO C) have been designed to address the underlying causes of the problems. All policy options address the identified problems, but they vary in terms of: (i) the flexibility granted to rules on breaks; (ii) the eligibility criteria for postponing daily rest periods; and (iii) the need to cater for adaptable weekly rest periods. All policy options consider the relationship between breaks/rest times and operational efficiency, work conditions and road safety.

PO A provides for limited flexibility of breaks, allowing drivers to split their breaks into periods of 30 and 15 minutes or into 15 minutes. It also allows drivers to postpone the start of their daily rest period by 1 hour when the total daily driving period for that day does not exceed 7 hours, or to postpone the daily rest period by 2 hours when the total daily driving period does not exceed 5 hours. These derogations are only possible once during a trip of 8 days or more. PO A also aligns the rules for occasional bus-and-coach transport services provided in a

¹ SWD(2017)184 final, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017SC0184>.

single Member State with international services that cross two or more Member States, by also allowing the postponement of the weekly rest period for up to 12 consecutive 24-hour periods for services provided within a single Member State (the so-called twelve-day rule). The twelve-day rule is currently only applicable to such services provided internationally – i.e. when the service covers two or more Member States.

PO B allows drivers to split their breaks in a completely flexible manner. It also allows drivers to postpone the start of the daily rest period by 1 hour when the total daily driving period for that day does not exceed 7 hours, or to postpone the daily rest period by 2 hours when the total daily driving period does not exceed 5 hours. These derogations are only possible twice during a trip of 8 days or more. PO B also makes it possible for drivers involved in services lasting at least 8 days to distribute their weekly rest periods over 10 consecutive weeks.

PO C allows drivers to split their breaks in a completely flexible manner. It also allows drivers to postpone the start of their daily rest periods by 1 hour when the total daily driving period for that day does not exceed 7 hours, or to postpone the daily rest period by 2 hours, when the total daily driving period does not exceed 5 hours. These derogations are possibly unlimited with respect to the number of times they may occur during a trip of 8 days or more. PO C also allows domestic occasional-passenger services to use the twelve-day derogation, and removes the single-service condition, referred to in Article 8(6a) of Regulation (EC) No 561/2006, and the obligation to take two regular weekly rest periods after using the twelve-day derogation.

PO A was selected as the preferred policy option because it is more effective in reaching the policy objectives than PO B and PO C. In terms of efficiency, PO C and PO B show higher benefit-to-cost ratios. However, this does not reflect the positive impacts of PO A on working conditions, which could not be quantified.

PO A would address the problems that the current rules cause for working conditions while using compensatory action to mitigate the risks. Thus, PO A is expected to have a positive impact on working conditions. PO B and PO C would also address these problems, but create new issues that are expected to have negative impacts on working conditions. More specifically, the extensions of the duty cycle could be used frequently in PO B and PO C, meaning that the impact on working conditions would be negative. PO B and PO C would also entail significant changes to the rules on weekly rest periods, leading to negative impacts on working conditions that would more than offset any benefit from increased driver autonomy and freedom over their workload.

In addition, PO A is the most consistent with the objectives of Regulation (EC) No 561/2006 of harmonising the conditions of competitions between modes of inland transport, notably equal treatment between international and domestic occasional services and of improving working conditions. It is also the most consistent with the objective (albeit to a minor extent) of gender equality. The subsidiarity requirement is fulfilled by all options. All options are also considered proportionate.

What are different stakeholders' views? Who supports which option?

The preferred policy option (PO A) is supported by road-transport operators, business associations and self-employed drivers as it will: (i) allow for more flexible rules to organise more efficient and high-quality services; and (ii) ensure equal treatment between all operators of occasional-passenger transport across the EU. However, those stakeholders would be more in favour of PO C, which would generate the most economic benefits. Trade unions, employed drivers and authorities were much less positive about PO C and PO B, and were less opposed to the measures included in PO A.

C. Impacts of the preferred option

What are the benefits of the preferred option (if any, otherwise of main ones)?

The preferred policy option is expected to result in economic benefits (in terms of cost savings from greater flexibility of rules) and social protection (in terms of improved working conditions for drivers). In particular, this is expected to have a positive impact on the quality of occasional passenger-transport services and on equal treatment between all operators of occasional-passenger transport (i.e. providing both international and domestic services). Environmental impacts were assessed to be slightly positive but could not be quantified.

For **operators** of occasional bus-and-coach transport, the preferred policy option is expected to result in adjustment cost savings of between EUR 106.4 million and EUR 141.9 million, expressed as present value over 2025-2050 relative to the baseline (in 2021 prices), thanks to: (i) more flexible rules on breaks and rest periods; and (ii) the extension of the twelve-day rule to operators carrying out domestic occasional passenger services.

For **drivers**, the preferred policy option is expected to result in improved working conditions and to facilitate compliance with the rules, thereby leading to reduced driver stress and fatigue, and indirectly to increased road safety.

What are the costs of the preferred option (if any, otherwise of main ones)?

The preferred policy option does not change the arrangements on enforcement and reporting on compliance with the rules.

The preferred policy option entails minor adjustments that require Member State authorities to familiarise themselves with the changes. These one-off adjustment costs for Member State authorities are estimated at roughly EUR 5.4 million relative to the baseline in 2025 (in 2021 prices).

In addition, for occasional operators of bus-and-coach transport, the one-off adjustment costs to familiarise themselves with the new rules are estimated at EUR 0.6 million relative to the baseline in 2025 (in 2021 prices). However, considering the adjustment cost savings, the net cost savings for operators of bus and coach services are estimated at between EUR 105.8 million and EUR 141.3 million relative to the baseline, expressed as present value over 2025-2050.

What are the impacts on SMEs and competitiveness?

The impacts on SMEs are expected to be positive. The preferred policy option is expected to result in net cost savings for operators of occasional bus-and-coach services estimated at between EUR 105.8 million and EUR 141.3 million, expressed as present value over 2025-2050 relative to the baseline. Considering the large share of SMEs in the occasional bus-and-coach transport market, a significant share of these net cost savings is expected to be attributed to SMEs, although no data were available to make it possible to identify the SMEs.

Will there be significant impacts on national budgets and administrations?

The preferred policy option entails minor adjustments for Member State authorities to familiarise themselves with the changes. The one-off adjustment costs for Member State authorities are estimated at EUR 5.4 million relative to the baseline in 2025 (in 2021 prices).

Will there be other significant impacts?

Positive impacts are expected for the single market and competition. In addition, high working standards and safety levels will be preserved across the EU.

Proportionality

The preferred policy option does not go beyond what is necessary to reach the overall policy objectives. The proposed flexibility for breaks and rest periods as well as the alignment of the twelve-day rule to domestic services will result in increased business performance and service efficiency as well as in improved working conditions for drivers. The costs from the implementation of the measures in the preferred option are very limited, especially when compared to the net cost savings that these can yield.

D. Follow-up

When will the policy be reviewed?

The Commission services will monitor the implementation and effectiveness of Regulation (EC) No 561/2006 based on the reports submitted by Member States as set out in Article 17 of the Regulation. In addition, the impacts of the initiative will be monitored drawing on Eurostat and/or dedicated surveys.