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2007/0097 (COD)

Proposal for a

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

**on common rules for the international carriage of passengers by coach and bus  
(recast)**

**{SEC(2007) 635}**  
**{SEC(2007) 636}**

(presented by the Commission)

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **1.1. Motivations and objectives of the proposal**

Directive 96/26/EC on admission to the occupation of road transport operator together with Regulations (EEC) N° 684/92 and (EC) N° 12/98 on access to the market for coach and bus services formed initially the major component of the internal market for international passenger transport services by road.

The directive introduced minimum quality standards which must be met in order to enter the profession, while the two regulations liberalised international occasional passenger services, established a special authorisation procedure for international regular passenger services as well as allowed cabotage services in the course of such international services.

These rules now ought to be made consistent with the new legal framework stemming from the regulation on public passenger transports by rail and road, which is on the verge to be adopted by Parliament and Council. These rules need also to be made clearer and in some cases simplified since it has appeared from experience that certain legal provisions entail unnecessary administrative burdens.

#### **1.2. General context**

Regulation (EEC) N° 684/92 opens the access to the market of international carriage of passengers by coach and bus while Regulation (EC) N° 12/98 lays down the conditions for non-resident carriers to operate services within a Member State. Carriers have such access if they hold a Community licence which is granted only if they are established in a Member State and if they satisfy minimum requirements in terms of good repute, financial standing and professional capacity in accordance with Directive 96/26/EC.

The Commission had announced in its legislative programme for 2006 its intention to examine more in detail these rules and, if needed, to make them simpler and clearer. After a public consultation and an impact assessment, it appears that the lack of clarity or complexity of existing provisions renders enforcement difficult and entails unnecessary administrative burdens in the following areas:

- The scope of application of the Regulation is unclear as regards passenger transport by Community carriers to and from third countries and transiting Member States.
- The Regulation (EEC) N° 684/92 has created an authorisation scheme for regular international passenger services. Undertakings that wish to operate an international line need to apply for an authorisation. For each application national authorities must seek the agreement of the other Member States affected by the service, hear the transit countries, assess the consequences of the introduction of the service and notify the applicant whether they accept or reject the application. The procedure is perceived, especially by the industry, as creating high barriers for new entrants and unnecessary bureaucratic

burdens.

- The exchange of information between Member States, although already provided for in the current rules, seems rather ineffective. As a result, undertakings which operate on the territory of a Member State other than their Member State of establishment hardly risk any administrative sanctions, as a result of which the competition might be distorted between these undertakings less inclined to comply with rules and the others.
- The diversity of formats used for the Community licences and certified true copies creates problems during inspections and often leads to a loss of valuable time for operators and enforcement staff.

### **1.3. Provisions in force in the field of the proposal**

The proposal aims at revising and consolidating Regulations N° 684/92 and N° 12/98.

### **1.4. Consistency with the other policies and the objectives of the Union**

The new regulation contributes indirectly to improving road safety by a stricter monitoring of undertakings which operate in several Member States and ensure consistency with the new rules of public services in road and rail transport.

This proposal falls under the programme "better regulation" and is in conformity with the commitment taken by the Commission to simplify and update the acquis. A particular attention was given to simplification and to greater coherence of the rules on public services and the other rules on road transport, in particular regulation (EEC) N° 881/92 and the regulation (EEC) N° 3118/93 on the access to the road haulage market and directive 96/26/EC laying down the basic conditions to be authorised to the profession and for their monitoring.

## **2. CONSULTATION OF THE INTERESTED PARTIES AND IMPACT ANALYSIS**

### **2.1. Consultation of the interested parties**

#### *Consultation methods used, principal sectors concerned and the respondents' general profile*

Before drafting this proposal a public consultation exercise was conducted in order to gather as many comments and suggestions as possible from the individuals and bodies concerned. This consultation concerned both road freight transport and road transport of passengers. It was organised jointly with the one on admission to the profession, used a questionnaire which was published on internet and sent to all the organisations which represent at national or European level the key stakeholders.

The Commission received 67 contributions from national authorities, international and national associations of road operators, users, employees or various interest groups and individual companies. The Commission discussed the key issues addressed in this recast in the framework of the social dialogue with the social partners on 5 September 2006. On 7 November 2006 a consultation meeting with stakeholders was held in Brussels with the participation of delegations from 42 organisations representing the

industry plus 37 observers from national administrations.

*Synthesis of the received answers and in the way in which they were taken into account*

The respondents generally shared the view that there is a need for further simplification and clarification of the current regulatory framework for the road transport market. One aspect repeatedly highlighted was the need to render the current rules, notably the ones on access to the market of road haulage more easily and effectively enforceable. It emerges clearly from the consultation the other following conclusions:

- Goods transport and passenger transport by road should remain regulated in two separate sets of rules. These are two different types of transport and stakeholders feel that they do not have sufficient commonalities to treat them in one legal text.
- Many contributions pointed out the need for applying correctly the existing rules and have them enforced properly. A better cooperation between national enforcement authorities should take place, which would require the setting-up of an EU-wide register of licensed operators or database of Community licences.
- Several stakeholders claimed that the procedure to authorise international regular passenger services should be simplified and was creating unnecessary red tape. It was also suggested to simplify procedures for regional or local cross-border services.
- There has also been a clear support to further standardize the models of Community licence, certified copies and driver attestation.

The summary of the received answers to the public consultation, complete text of the individual answers and report of the hearing of 7 November 2006 are available on the following site:

[http://ec.europa.eu/transport/road/consultations/road\\_market\\_en.htm](http://ec.europa.eu/transport/road/consultations/road_market_en.htm)

## **2.2. Obtaining and use of expertise**

The stakeholder consultation was accompanied by an independent expert, Prof. Brian Bayliss, co-chairman of the Committee of Enquiry on Road Transport which, in July 1994, had elaborated a comprehensive report on the state of completion of the internal market in road transport and of the work necessary to complete it.

## **2.3. Impact analysis**

The impact analysis carried out to prepare this proposal covered the recast of both the rules on admission to the profession and the ones on access to the market, in view of

their close links and in view of their overlaps.

The impact assessment built on various studies carried out during 2004, 2005 and 2006<sup>1</sup>. It was the result of a contract with an external consultant. During the work on the contract, constant feedback was provided from the impact assessment to make sure that the proposed recast took account of its findings. The principle of proportionate analysis has been applied and the analysis has focused on the most significant forms of impact and distributive effects.

Five policy options have in total be assessed:

1. The "no change" option would leave the present road legislation unaltered and the problems outlined at the start of this document would persist and eventually become worse.
2. The "technical simplification and non-regulatory" option would, as far as passenger transport is concerned, be only to merge and codify the two texts. The main problems identified at the start of this document would remain.
3. The "harmonisation" option would mean to merge and simplify the texts, notably the authorisation procedure for international regular services while harmonizing the admission to the occupation and enhancing the monitoring and controls. This option would improve compliance with the road transport rules and would reduce administrative costs. It would also reduce the barriers for new entrants in the market of international road transport of passengers.
4. The "higher quality standards" option would raise to an even higher level the average professional qualifications in the sector and improve its financial capacity. In the long run, it would encourage more efficient operators, bringing benefits for the whole economy. In the short term, it entails additional administrative costs which would penalise very small undertakings and independent operators. This policy option is more controversial.
5. The "liberalisation" option would totally abolish the current authorisation procedure. But without harmonising quality standards at the upper level (i.e. implementing option 4) first, it could push more efficient operators out of the market. In the long run, the overall effect on market efficiency would be neutral if not negative. This policy option would cut jobs in certain countries. Given its wide-ranging implications a much more thorough analysis would need to be undertaken exceeding the current framework of simplification.

In view of these results, this proposal reflects the Option 3 known as "harmonisation". The summary of the impact analysis and the complete report of this impact analysis accompany this proposal. The impact analysis shows that the present regulation in combination with the other two regulations proposed at the same time (on goods transport and admission to the occupation) will reduce distortions to competition, will improve compliance with social and road safety rules and will offer the Member States

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<sup>1</sup> Studies were carried out on driver attestations (ECORYS), on admission to the occupation and on the Working Time Directive (TNO).

the possibility to reduce administrative costs in the order of 190 million € per year.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

#### **3.1. Summary of the proposed measures**

This proposal consolidates and merges the two regulations on access to the road transport market. It introduces the following substantial modifications :

- A simpler and faster procedure to authorise international regular services: certain grounds for refusal provided for in the current authorisation regime are outdated and should be removed. Authorisation should henceforth be granted unless there are clearly specified grounds for refusal attributable to the applicant. Only one ground for refusal relating to the relevant market remains, namely that the service applied for would seriously affect the viability of a comparable service operated under a public service obligation on the direct sections concerned.
- Simplified and standardized Community licence: more detailed specifications are provided for the format of the Community licence and of the certified true copies in order to reduce administrative burden and delays especially at road side checks.
- Enhanced legal provisions obliging a Member State to act, when requested to do so by another Member State, when a carrier to whom it delivered a Community licence commits an infringement in another country. Such action should take the form of at least a warning. Enhanced procedures to communicate between Member States are put in place using the contact points established pursuant to the new Regulation on the admission to the occupation of road transport operator.

#### **3.2. Legal basis**

The draft regulation, which repeals Regulation (EEC) N° 684/92 and Regulation (EEC) N° 12/98.

#### **3.3. Principle of subsidiarity**

The principle of subsidiarity applies insofar as the proposal does not fall within the exclusive competence of the Community.

The main objective of the proposal is to clarify existing Community rules and therefore it cannot be achieved by the Member States alone. Moreover, the proposal seeks to enhance the existing exchange of information between Member States, which cannot be made by a Member State alone and can be made only in a compartmental way on a bilateral basis by the Member States.

A Community action is therefore necessary having regard to the impossibility for a Member State or a group of Member State of solving satisfactorily the identified problems. The proposal is therefore in conformity with the principle of subsidiarity.

### **3.4. Principle of proportionality**

The proposal does not exceed what is required to achieve its objective and respects the principle of proportionality for the following reasons :

- it deals with international transport for which a prescriptive approach is required which allows an homogeneous application and provides for fair competition;
- in case of serious or repeated minor infringements, the proposal obliges Member States to issue a warning but leaves it to the discretion of Member States to decide when Community licences or certified copies should be withdrawn.

### **3.5. Choice of the instruments**

The proposed instrument is a regulation since it aims at simplifying rules already embedded in a regulation.

## **4. BUDGETARY IMPACT**

The proposal will not affect the Community budget.

## **5. ADDITIONAL INFORMATION**

### **5.1. Simplification**

The proposal contributes to the simplification of the acquis. It appears in the rolling programme of the Commission for the update and the simplification of the 'acquis communautaire' and in its legislative and work programme under the reference 2006/TREN/ 42.

In this proposal, the obsolete measures were abolished and, as much as possible, the contents, the presentation and the formulation of the regulations were re-examined to facilitate their comprehension and to avoid ambiguous interpretations.

This proposal is in conformity with the inter-institutional agreement of 28 November 2001 for a more structured recourse to the technique of the recasting of the legal acts. It was worked out on the basis of a preliminary consolidation of the text carried out, by means of a computer system, by the Office for Official Publications of the European Communities. When articles were renumbered, the correlation between old and the new numbering is exposed in a correspondence table which appears in Annex II to the recasted regulation.

### **5.2. Repeal of existing legislation**

The adoption of the proposal will lead to the repeal of Regulation (EEC) N° 684/92 and Regulation (EEC) N° 12/98.

### **5.3. European Economic Area**

The proposed act concerns an EEA matter and should therefore extend to the EEA.

### **5.4. Detailed explanation of the proposal**

This proposal consolidates and merges the regulation (EEC) N° 684/92 and the regulation (EEC) N° 12/98 on the access to the market of coach and bus services. It clarifies the existing legal provisions and modify them on certain aspects to strengthen overall consistency and reduce administrative burdens. It introduces the following substantial modifications:

#### *Clarification of the scope, the definitions and the principles*

*Article 1* clarifies the scope. The regulation applies to all international carriage on the territory of the Community, including carriage from and to third countries, and to national road passenger services operated by a non-resident haulier on a temporary basis ("cabotage"). As regards international carriage to or from a third country Article 1 specifies that, as long as there is no agreement between the Community and the third country in question, the Regulation does not apply to that part of the journey carried out within the Member State of picking up or setting down of passengers. It does, however, apply within a Member State crossed in transit.

*Article 2* is reworded and now contains only the definitions of the various services. The normative provisions are moved to Article 5.

#### *Community licence and certified copies*

*Article 4* introduces new provisions to standardize the Community licence and the certified true copies the models of which are provided in Annex I.

#### *Access to the market*

Article 5 specifies the conditions are which the various services may be operated. It has been complemented by the normative provisions previously contained in Article 2.

#### *Procedure to authorise international regular services*

*Article 8* provides for a streamlined and simplified procedure as compared to the one laid down in Regulation 684/92. Authorisation will henceforth be granted unless one of three grounds attributable to the applicant applies. Only one ground for refusal relating to the relevant market remains, namely that the service applied for would seriously affect the viability of a comparable service operated under a public service obligation on the direct sections concerned. Transit countries, i.e. Member States which are not affected by the service because no passengers are picked up or set down, will not be heard anymore, but will be informed once the service has been authorised.



In case the authorising authority is unable to reach a decision the case can be referred to the Commission. The deadline of ten weeks for the Commission provided for in Regulation 684/92 has proven too short. It should be extended to four months to allow the Commission to reach a well-founded solution.

### *Cabotage*

The rules on cabotage in passenger transport by road remain in substance largely unchanged. They were previously laid down in Regulation (EC) No 12/98.

The provision of Article 9 of Regulation 12/98 on safeguard measures in case of serious disturbances of a national transport market is not taken over into the new recast Regulation. This provision has never ever been used since the opening up of national markets for cabotage and can therefore be considered redundant.

### *Cooperation between Member States*

Although the existing regulations have already provided for the mutual assistance by Member States practice has shown that this cooperation never fully developed. Infringements committed by carriers outside their Member State of establishment were only in isolated cases reported by the Member State where the infringement took place and hardly ever resulted in a sanction imposed by the Member State of establishment of the carrier.

In order to strengthen and facilitate the exchange of information between national authorities *Article 20* obliges Member States to exchange information via the national contact points which are to be set up pursuant to the Regulation on the admission to the occupation of road transport operator. These are designated administrative bodies or authorities in charge of carrying out the information exchange with their counter parts in the other Member States. Also, *Article 24* stipulates that Member States enter in their national register of road transport undertakings all serious infringements and repeated minor infringements committed by their own haulier and which have led to the imposition of a sanction.

### *Withdrawals of Community licence and exchange of information*

There are two possible approaches to homogenize the current monitoring and control systems by Member States. The first is to empower the Member State so that they can impose dissuasive sanctions to non resident carriers crossing their territory, for instance by suppressing the mutual recognition of the Community licence. This option could lead to discriminatory behaviour by the control authorities and may not be compatible with the freedom of circulation. A second approach is to enhance the power and means of the national authorities who are habilitated to deliver and withdraw the Community licence. The current proposal, in combination with the recast of Directive 96/26/EC, follows this latter approach.

Consequently, when a carrier commits a serious infringement or repeated minor infringements of Community road transport legislation, *Article 22* introduces an obligation for the competent authority of the Member State of establishment of the carrier to issue a warning. This obligation also applies to cases where the carrier committed such an infringement in another Member State. In addition, Article 22 (1)

clarifies the sanctions that the Member State may impose on the hauliers established within its territory, namely the (temporary or partial) withdrawal of certified copies of the Community licence or of the Community licence. It is clarified that a Member State may also impose as a sanction the temporary or permanent disqualification of a carrier's transport manager.

*Article 23* introduces a new procedure to be followed by the Member State which ascertains an infringement committed by a non-resident carrier. This Member State has one month to communicate the information according to a minimum standard format. It may ask the Member State of establishment to impose administrative sanctions. The Member State of establishment of the carrier concerned has three months to inform the other Member State of the follow-up.

The reporting obligations for Member States are now combined into one article, *Article 28*.

#### *Unchanged provisions*

The following provisions remain in substance unchanged, albeit some technical adaptations:

Regulation 684/92 – Articles 3, 6, 8, 9, 10, 11, 12, 14 and 15. Regulation 12/98 – none.

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↓ 684/92

⇒ new

2007/0097 (COD)

Proposal for a

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

**~~on common rules for the international carriage of passengers by coach and bus~~**

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↓ 12/98

**~~laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State~~**

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↓ new

**on common rules for access to the market for coach and bus services**

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↓ 684/92, 12/98 (adapted)

**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article ~~75~~ ~~⊗~~ 71 ~~⊗~~ thereof,

Having regard to the proposal from the Commission<sup>2</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>3</sup>,

Having regard to the opinion of the Committee of the Regions<sup>4</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>5</sup>,

Whereas:

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<sup>2</sup> OJ C , , p. .

<sup>3</sup> OJ C , , p. .

<sup>4</sup> OJ C , , p. .

<sup>5</sup> OJ C , , p. .

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↓ new

- (1) A number of substantial changes are to be made to Council Regulation (EEC) 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus<sup>6</sup> and Council Regulation (EC) No 12/98 of 11 December 1997 laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State<sup>7</sup>. In the interests of clarity, these Regulations should be recast.
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↓ 684/92 Recital 1 (adapted),  
12/98 Recital 2 (adapted)

- (2) ~~In accordance with Article 75 (1) (a) of the Treaty, the establishment of a common transport policy entails, *inter alia*, laying down common rules applicable to the international carriage of passengers by road~~ ☒ as well as ~~☒ pursuant to Article 75 (1) (b) of the Treaty, the establishment of a common transport policy entails, *inter alia*, laying down~~ the conditions under which non-resident carriers may operate national transport services within a Member State.
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↓ 12/98 Recital 1 (adapted)

- (1) ~~Whereas Council Regulation (EEC) No 2454/92 of 23 July 1992, laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State (4) was declared void by the Court of Justice in its judgment of 1 June 1994 (5);~~
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↓ 684/92 Recital 2 (adapted)

- (2) ~~Such rules were laid down in Council Regulations No 117/66/EEC<sup>8</sup>, (EEC) No 516/72<sup>9</sup> and (EEC) No 517/72<sup>10</sup> and whereas this Regulation does not call in question the liberalization achieved by those Regulations;~~

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<sup>6</sup> OJ L 74, 20.3.1992, p.1. Regulation as last amended by Council Regulation (EC) No 1791/2006 of 20 November 2006 (OJ L 363, 20.12.2006, p.1)

<sup>7</sup> OJ L 4, 8.1.1998, p. 4.

<sup>8</sup> ~~OJ No 147, 9. 8. 1966, p. 2688/66.~~

<sup>9</sup> ~~OJ No L 67, 20. 3. 1972, p. 13. Regulation last amended by Regulation (EEC) No 2778/78 (OJ No L 133, 30. 11. 1978, p. 4).~~

<sup>10</sup> ~~OJ No L 67, 20. 3. 1972, p. 19. Regulation last amended by Regulation (EEC) No 1301/78 (OJ No L 158, 16. 6. 1978, p. 1).~~

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↓ new

- (3) The Community rules on the access to the market for coach and bus services were initially laid down in Regulations (EEC) No 684/92 and (EC) No12/98. There is a need to enhance the clarity, readability and enforceability of the existing rules and to improve certain aspects of the current regime. In the interest of clarity and simplification, these legal acts should be recast and consolidated into one single regulation.

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↓ new

- (4) To assure a coherent framework for the international carriage of passengers by coach and bus throughout the Community this Regulation should apply to all international carriage on Community territory. Carriage from Member States to third countries is still largely covered by bi-lateral agreements between the Member States and those third countries. Therefore, in this case the Regulation should not apply to that part of the journey on the territory of the Member State of picking up or setting down as long as the necessary agreements between the Community and the third countries concerned have not been concluded. It should, however, apply to the territory of a Member State crossed in transit.

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↓ 684/92 Recital 3

- (5) Freedom to provide services constitutes a basic principle of the common transport policy and requires that carriers from all Member States be guaranteed access to international transport markets without discrimination on grounds of nationality or place of establishment.

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↓ new

- (6) The international carriage of passengers by coach and bus should be conditional on the possession of a Community licence. Carriers should be required to carry a certified true copy of the Community licence aboard each of their vehicles in order to facilitate effective controls by enforcement bodies, especially those outside the Member State in which the carrier is established. The conditions governing the issue of Community licences, their periods of validity and the detailed rules for their use should be determined. It is necessary to lay down detailed specifications as regards the layout and other features of the Community licence and the certified copies.

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↓ 684/92 Recital 4 (adapted)

- (7) There should be provision for flexible arrangements subject to certain conditions for ~~shuttle services with accommodation~~, special regular ~~service~~ ☒ services ☒ and certain occasional services, in order to satisfy market demand.
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↓ 684/92 Recital 5

- (8) While maintaining authorisation arrangements for regular services ~~and shuttle services without accommodation~~, certain rules should be amended, particularly as regards authorisation procedures.
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↓ new

- (9) Authorisation of regular services should henceforth be granted unless there are clearly specified grounds for refusal attributable to the applicant. Only one ground for refusal relating to the relevant market should remain, namely that the service applied for would seriously affect the viability of a comparable service operated under a public service obligation on the direct sections concerned.
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↓ 684/92 Recital 6 (adapted)

- ~~(6) Observance of the Treaty rules on competition must be guaranteed;~~
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↓ 12/98 Recital 3

- ~~(3) That provision entails the removal of all restrictions against carriers providing the services in question on the grounds of their nationality or the fact that they are established in a Member State other than that in which the service is to be provided;~~
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↓ 12/98 Recital 4

- ~~(4) Carriers providing such services should be subject to comparable systems, so as to limit inequality in the conditions of competition because of their nationality and country of establishment, and hence promote the gradual approximation of national laws;~~

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↓ 12/98 Recital 5

~~(5) The definitions of the various coach and bus services should be the same as those adopted in the context of international transport;~~

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↓ 12/98 Recital 6 (adapted)

(10) Non-resident carriers should be allowed to operate certain ~~forms of coach and bus~~ ☒ national road passenger ☒ services, bearing in mind the specific characteristics of each form of service.

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↓ 12/98 Recital 7 (adapted)

~~(7) Whereas the provisions applicable to cabotage transport operations should be established;~~

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↓ 12/98 Recital 8

(11) The provisions of 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<sup>11</sup> apply in cases where, for the provision of special regular services, carriers, post workers, who have an employment relationship with those carriers, from the Member State where they ordinarily work.

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↓ 12/98 Recital 9 (adapted)

(12) Where regular services are concerned, only regular services provided as part of a regular international service, excluding urban and suburban services, should be opened up to ~~cabotage~~ ☒ non-resident carriers ☒, subject to certain conditions, and in particular to the legislation in force in the host Member State.

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↓ new

(13) It is desirable that Member States should grant each other mutual assistance with a view to the sound application of this Regulation.

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<sup>11</sup> OJ L 18, 21.1.1997, p.1

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↓ 684/92 Recital 7

⇒ new

- (14) Administrative formalities should be reduced as far as possible without the abandonment of the controls and penalties that guarantee the correct application ⇒ and effective enforcement ⇐ of this Regulation. ⇒ To this end the existing rules on the withdrawal of the Community licence should be clarified and strengthened. The current rules should be adapted to allow also the effective sanctioning of serious or repeated minor infringements committed in a Member State other than the Member State of establishment. Penalties should be non-discriminatory and in proportion to the seriousness of the infringements. There is a need to provide for the possibility of lodging an appeal. ⇐
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↓ new

- (15) Member States should enter in their national register of road transport undertakings all serious infringements and repeated minor infringements committed by carriers and which have led to the imposition of a sanction.
- (16) In order to strengthen and facilitate the exchange of information between national authorities Member States should exchange the relevant information through the national contact points set up pursuant to Regulation (EC) No XX [admission to the occupation].
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↓ 684/92 Recital 8 (adapted)

- ~~(8) It is for the Member States to adopt the measures necessary for the implementation of this Regulation.~~
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↓ 684/92 Recital 9 (adapted)

- ~~(9) Whereas the application of this Regulation should be monitored by means of a report to be submitted by the Commission and any future action in this area should be considered in the light of that report,~~
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↓ 12/98 Recitals 10 to 15  
(adapted)

- ~~(10) Whereas provisions should be adopted so that action can be taken in the event of serious disturbance of the transport markets affected;~~



- ~~(11) Whereas an advisory committee should be set up with the task of assisting the Commission in drawing up documents relating to cabotage transport operations in the form of occasional services and advising the Commission on safeguard measures;~~
- ~~(12) Whereas it is desirable that Member States should grant each other mutual assistance with a view to the sound application of this Regulation, particularly in respect of penalties applicable in the event of infringements;~~
- ~~(13) Whereas it is for the Member States to adopt the measures necessary for the implementation of this Regulation;~~
- ~~(14) Whereas the application of this Regulation should be monitored by means of a report to be submitted by the Commission;~~
- ~~(15) Whereas the aforementioned judgment of the Court of Justice, which declared Regulation (EEC) No 2454/92 void, upholds the effects of the Regulation until such time as the Council has adopted new legislation on the matter; whereas this Regulation will not be applied until eighteen months after its entry into force; whereas it must therefore be considered that the effects of the voided Regulation will persist until this Regulation has been fully implemented;~~
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↓ new

- (17) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>12</sup>.
- (18) In particular powers should be conferred on the Commission to establish the format of certain documents to be used for the application of this Regulation and to adapt Annex I to technical progress. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation and to supplement this Regulation by the addition of new non-essential elements they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (19) On grounds of efficiency, the normal time limits for the regulatory procedure with scrutiny should be curtailed for the adoption of those measures.
- (20) Member States should take the necessary measures to implement this Regulation, in particular as regards effective, proportionate and dissuasive penalties.
- (21) Since the objectives of the action to be taken cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and the effects of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In

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<sup>12</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

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.

(22) It is therefore necessary to repeal Regulations (EEC) 684/92 and (EC) 12/98.

HAVE ADOPTED THIS REGULATION:

## **SECTION I CHAPTER I**

### **General provisions**

#### *Article 1* *Scope*

1. This Regulation shall apply to the international carriage of passengers by coach and bus within the territory of the Community by carriers for hire or reward or own-account carriers established in a Member State in accordance with its law, using vehicles which are registered in that Member State and are suitable, by virtue of their construction and equipment, for carrying more than nine persons, including the driver, and are so intended, and to the movement of such vehicles empty in connection with such carriage.

Change of vehicle or interruption of carriage to enable part of a journey to be made by another means of transport shall not affect the application of this Regulation.

2. In the event of carriage from a Member State to a third country and vice-versa, this Regulation shall apply to the ⇒ part of the journey on the territory of any Member State crossed in transit. ⇐ ⊗ It shall not apply to that <⊗ part of the journey on the territory of the Member State of picking up or setting down, after conclusion of ⊗ as long as <⊗ the necessary agreement between the Community and the third country concerned ⊗ has not been concluded <⊗.

3. Pending the conclusion of ⊗ the <⊗ agreements ⊗ referred to in paragraph 2 <⊗ between the Community and the third countries concerned, this Regulation shall not affect provisions relating to the carriage referred to in paragraph 2 ⊗ from a Member State to a third country and vice-versa <⊗ contained in bilateral agreements concluded by Member States with those third countries. However, Member States shall endeavour to adapt those agreements to ensure compliance with the principle of non-discrimination between Community carriers.

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

*Article 2*  
*Definitions*

For the purposes of this Regulation, the following definitions shall apply:

~~1. Regular services~~

~~1.1(a) "Regular services" are~~ ☒ means ☒ services which provide for the carriage of passengers at specified intervals along specified routes, passengers being taken up and set down at predetermined stopping points. ~~Regular services shall be open to all, subject, where appropriate, to compulsory reservation.~~

~~The regular nature of the service shall not be affected by any adjustment to the service operating conditions.~~

~~1.2(b) ☒ "special regular services" means regular~~ ☒ ~~services, by whomsoever organized, which provide for the carriage of specified categories of passengers to the exclusion of other passengers; insofar as such services are operated under the conditions specified in 1.1, shall be deemed to be regular services. Such services are hereinafter called «special regular services».~~

~~Special regular services shall include:~~

- ~~(a) the carriage of workers between home and work;~~
- ~~(b) carriage to and from the educational institution for school pupils and students;~~
- ~~(c) the carriage of soldiers and their families between their state of origin and the area of their barracks.~~

~~The fact that a special service may be varied according to the needs of users shall not affect its classification as a regular service.~~

~~1.3. The organization of parallel of temporary services, serving the same public as existing regular services, the non serving of certain stops and the serving of additional stops on existing regular services shall be governed by the same rules as existing regular services.~~

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↓ 684/92 (adapted)

### ~~3. Occasional services~~

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↓ 11/98 Art. 1.1 (adapted)

~~3.1.(c) "Occasional services" are~~ ☒ means ☒ services which do not ~~meet~~ ☒ fall within ☒ the definition of regular services, including special regular services and ~~which are characterized above all by the fact~~ ☒ whose main characteristic is ☒ that they carry groups of passengers ~~assembled~~ ☒ constituted ☒ on the initiative of the customer or the carrier himself.

~~The organization of parallel or temporary services comparable to existing regular services and serving the same public as the latter shall be subject to authorization in accordance with the procedure laid down in Section II.~~

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↓ 684/92 (adapted)  
→<sub>1</sub> 11/98 Art. 1.1

~~3.3. The services referred to in point 3 shall not cease to be occasional services solely because they are provided at certain intervals.~~

~~3.4. Occasional services may be provided by a group of carriers acting on behalf of the same contractor, and travellers may catch a connection en route, with a different carrier of the same group, in the territory of one of the Member States.~~

~~The names of such carriers and the connection points en route shall be communicated to the competent authorities of the Member States concerned, in accordance with the procedures to be determined by the Commission →<sub>1</sub> in accordance with the procedure laid down in Article 16a ←.~~

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↓ 11/98 Art. 1.1 (adapted)

### ~~4. Own-account transport operations~~

~~(d) "Own-account transport operations" are those~~ ☒ means operations ☒ carried out for non-commercial and non-profit-making purposes by a natural or legal person, ~~provided that:~~ ☒ whereby ☒

- ~~–~~ the transport activity is only an ancillary activity for that natural or legal person,
- ~~–~~ the vehicles used are the property of that natural or legal person or have been obtained on deferred terms by them or have been the subject of a long-term leasing contract and are driven by a member of the staff of the natural or legal person or by the natural person himself.

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↓ new

- (e) *"cabotage transport operations"* means national road passenger services for hire and reward carried out on a temporary basis by a carrier in a host Member State.
- (f) *"host Member State"* means a Member State other than the Member State where the carrier is established.
- (g) *"serious infringement or repeated minor infringements of Community road transport legislation"* means infringements which lead to the loss of good repute in accordance with Article 6 (1) and (2) of Regulation [admission to the occupation].
- 

↓ 684/92 (adapted)

### *Article 3* *Freedom to provide services*

1. Any carrier for hire or reward referred to in Article 1 shall be permitted ☒ in accordance with this Regulation ☒ to carry out ~~the transport services defined in Article 2~~ ☒ regular services including special regular services and occasional services by coach and bus ☒ without discrimination as to nationality or place of establishment if he:

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↓ 11/98 Art. 1.2 (adapted)

- (a) is authorised in the State of establishment to undertake carriage by means of regular services including special regular services or occasional services by coach and bus ☒ in accordance with the market access conditions laid down by national legislation ☒.
- 

↓ 684/92 (adapted)

- (b) satisfies the conditions laid down in accordance with Community rules on admission to the occupation of road passenger transport operator in national and international transport operations;
- (c) meets legal requirements ~~on road safety as far as~~ ☒ regarding ☒ the standards for drivers and vehicles ~~are concerned~~ ☒ as laid down, in particular, in Council Directive 96/53/EC<sup>13</sup>, Council Directive 92/6/EEC<sup>14</sup> and Directive 2003/59/EC of the European Parliament and of the Council<sup>15</sup>. ☒

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<sup>13</sup> OJ L 235, 17.9.1996, p. 59.

<sup>14</sup> OJ L 57, 2.3.1992, p. 27, Directive as last amended by Directive 2002/85/EC OJ L 327, 4.12.2002, p. 8

<sup>15</sup> OJ L 226, 10.9.2003, p. 4.

2. Any own-account carrier referred to in Article 1 shall be permitted to carry out the transport services defined in Article ~~13~~5(5) without discrimination as to nationality or place of establishment if he:

- (a) is authorised in the State of establishment to undertake carriage by coach and bus in accordance with the market-access conditions laid down by national legislation;
- (b) meets legal requirements ~~on road safety as far as~~ ☒ regarding ☒ the standards for drivers and vehicles ~~are concerned~~ ☒ as laid down, in particular, in Directives 96/53/EC, 92/6/EEC<sup>16</sup> and 2003/59/EC. ☒

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↓ 11/98 Art. 1.3 (adapted)

## CHAPTER II

### ☒ Community licence and market access ☒

#### *Article ~~3~~4 Community licence*

1. ~~In order to carry out~~ International ☒ carriage of ☒ passengers ~~transport operations~~ by coach and bus, ~~any carrier meeting the criteria laid down in Article 3 (1) must hold as~~ ☒ shall be carried out subject to a ☒ Community licence issued by the competent authorities of the Member State of establishment ~~in accordance with the model set out in the Annex.~~

2. The competent authorities of the Member State of establishment shall issue the holder with the original of the Community licence, which shall be kept by the carrier, and the number of certified true copies corresponding to the number of vehicles used for the international carriage of passengers at the disposal of the holder of the Community licence, either in full ownership, or in another form, notably by virtue of an instalment-purchase contract, a hire contract or a leasing contract.

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↓ new

The Community licence and the certified true copies shall be in the format set out in Annex I.

They shall bear an engraved stamp or seal of the issuing authority as well as a signature and a serial number. The serial number of the driver attestation shall be recorded in the national electronic register of road transport undertakings provided for in Article 15 of Regulation [admission to the occupation] as part of the data set of the carrier.

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<sup>16</sup> OJ L 57, 2.3.1992, p. 27, Directive as last amended by Directive 2002/85/EC OJ L 327, 4.12.2002, p. 8

The measures designed to amend non-essential elements of this Regulation relating to the adaptation of Annex I to technical progress shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 26 (2).

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↓ 11/98 Art. 1.3

3. The Community licence shall be established in the name of the carrier and shall be non-transferable. A certified true copy of the Community licence shall be carried on the vehicle and shall be presented at the request of any authorised inspecting officer.

4. The Community licence shall be issued for a period of five years which shall be renewable.

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↓ new

Community licences and certified copies issued before the date of application of this Regulation shall remain valid until the date of their expiry.

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↓ 11/98 Art. 1.3 (adapted)

⇒ new

~~5. The Community licence shall replace the document issued by the competent authorities of the Member State of establishment certifying that the carrier has access to the market for the international carriage of passengers by road.~~

~~6.5.~~ When an application for a licence is submitted, and at least every five years thereafter, the competent authorities of the Member State of establishment shall verify whether the carrier meets or continues to meet the conditions laid down in Article 3 (1).

~~7.6.~~ Where the conditions referred to in Article 3 (1) are not met, the competent authorities of the Member State of establishment shall refuse to issue or renew ~~⇒ or shall withdraw ⇐~~ a Community licence by means of a reasoned decision.

~~8.7.~~ Member States shall guarantee the right of the applicant for, or holder of, a Community licence to appeal against a decision by the competent authorities of the Member State of establishment to refuse or withdraw this licence.

~~10.8.~~ Member States may decide that the Community licence shall also be valid for national transport operations.



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↓ 11/98 Art. 1.4 (adapted)

*Article ~~45~~*  
*Access to the market*

~~1. Occasional services as defined in Article 2 (3.1) shall not require authorization.~~

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↓ 684/92 Art. 2, point 1.1., 2<sup>nd</sup>  
sentence

1. Regular services shall be open to all, subject, where appropriate, to compulsory reservation.

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↓ 11/98 (adapted)

~~4. Regular services as defined in the first subparagraph of Article 2 (1.1) and special regular services not covered by a contract between the organizer and the carrier ☒ They ☒ shall require authorisation in accordance with Articles 5 to 10 ☒ the provisions of Chapter III ☒ .~~

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↓ 11/98 Art. 1.1

The regular nature of the service shall not be affected by any adjustment to the service operating conditions.

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↓ 684/92 Art. 2, point 1.3  
(adapted)

~~1.3.~~ The organization of parallel ~~of~~ ☒ or ☒ temporary services, serving the same public as existing regular services, the non-serving of certain stops and the serving of additional stops on existing regular services shall be governed by the same rules as ☒ the ☒ existing regular services.

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↓ 684/92 Art. 2, point 1.2.,  
second subparagraph (adapted)  
⇒ new

2. Special regular services ☒ shall be operated under the conditions specified in paragraph 1. They ☒ shall include:

- (a) the carriage of workers between home and work,
- (b) carriage to and from the educational institution for school pupils and students<sub>2</sub>

~~(e) the carriage of soldiers and their families between their state of origin and the area of their barracks.~~

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↓ 684/92 Art. 2, point 1.2, third subparagraph

The fact that a special service may be varied according to the needs of users shall not affect its classification as a regular service.

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↓ 11/98 Art. 1.4 (adapted)

~~2.~~ Special regular services ~~defined in Article 2 (1.2)~~ shall not require authorisation if they are covered by a contract concluded between the organizer and the carrier.

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↓ 11/98 Art. 1.4 (adapted)

~~1.~~ 3. Occasional services ~~as defined in Article 2 (3.1)~~ shall not require authorisation.

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↓ 11/98 Art. 1.1, point 3.1, 2<sup>nd</sup> paragraph (adapted)

⊗ However, ⊗ ~~the~~ organization of parallel or temporary services comparable to existing regular services and serving the same public as the latter shall be subject to ~~authorization~~ ⊗ authorisation ⊗ in accordance with the procedure laid down in ~~Section II~~ ⊗ Chapter III ⊗ .

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↓ 684/92 Art. 2, points 3.3. and 3.4.; 11/98 Art. 1.1 (adapted);

~~3.3.~~ The ⊗ Occasional ⊗ services ~~referred to in point 3~~ shall not cease to be occasional services solely because they are provided at certain intervals.

~~3.4.~~ Occasional services may be provided by a group of carriers acting on behalf of the same contractor, and travellers may catch a connection en route, with a different carrier of the same group, in the territory of one of the Member States.

~~The names of such carriers and the connection points en route shall be communicated to the competent authorities of the Member States concerned, in accordance with the procedures to be determined by the Commission in accordance with the procedure laid down in Article 16a.~~

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↓ new

The measures designed to amend non-essential elements of this Regulation by supplementing it relating to the procedures for the communication to the competent authorities of the Member States concerned of the names of such carriers and the connection points en route shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 26 (2).

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↓ 11/98 Art. 1.4 (adapted)

~~3.4.~~ Empty journeys by vehicles in connection with the transport operations referred to in ~~paragraphs 1 and 2~~ ☒ paragraph 2, third subparagraph, and in paragraph 3 ☒ shall likewise not require authorisation.

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↓ 684/92 (adapted)

~~5. Arrangements for own-account transport operations are set out in Article 13.~~

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↓ 684/92 (adapted)

## **~~SECTION IV~~**

### **~~OWN-ACCOUNT TRANSPORT OPERATIONS~~**

#### *~~Article 13~~*

~~15.~~ Own-account road transport operations defined in point ~~4 d~~ of Article 2 shall be exempt from any system of authorisation but shall be subject to a system of certificates.

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↓ 684/92; 11/98 Art. 1.14  
(adapted)

~~2.~~ The certificates ~~provided for in paragraph 1~~ shall be issued by the competent ~~authority~~ ☒ authorities ☒ of the Member State in which the vehicle is registered and shall be valid for the entire journey including transit.

~~They must conform to a model determined by the Commission in accordance with the procedure laid down in Article 16a.~~

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↓ new

The measures designed to amend non-essential elements of this Regulation by supplementing it relating to the format of the certificates shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 26 (2).

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↓ 11/98 Art. 1.5

## **SECTION II CHAPTER III**

### **Regular services subject to authorisation**

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↓ 684/92 (adapted)  
→<sub>1</sub> 11/98 Art. 1.6  
⇒ new

#### *Article ~~65~~*

#### *Nature of authorisation*

1. Authorisations shall be issued in the name of the ~~transport undertaking~~ ☒ carrier ☒ ~~They may~~ ☒ shall ☒ not be transferred by the latter to third parties. However, ~~the~~ ☒ a ☒ carrier who has received ~~the~~ ☒ an ☒ authorisation may, with the consent of the authority referred to in Article ~~67~~ (1), operate the service through a sub-contractor. In this case, the name of the latter undertaking and its role as sub-contractor shall be indicated in the authorisation. The sub-contractor ~~must~~ ☒ shall ☒ fulfil the conditions laid down in Article 3 (1).

→<sub>1</sub> In the case of undertakings associated for the purpose of operating a regular service, the authorisation shall be issued in the names of all the undertakings. ← It shall be given to the undertaking that manages the operation and copies shall be given to the others. The authorisation shall state the names of all the operators.

→<sub>1</sub> 2. The period of validity of an authorisation shall not exceed five years. ← It may be set at less either at the request of the applicant or by mutual consent of the competent authorities of the Member States on whose territory passengers are picked up or set down.

3. Authorisations shall specify the following:

- (a) the type of service;
- (b) the route of the service, giving in particular the place of departure and the place of destination;
- (c) the period of validity of the authorisation;

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↓ 11/98 Art. 1.6

(d) the stops and the timetable.

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↓ 684/92; 11/98 Art. 1.6  
(adapted)

~~4. Authorisations shall conform to a model drawn up by the Commission in accordance with the procedure laid down in Article 16a.~~

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↓ new

4. The measures designed to amend non-essential elements of this Regulation by supplementing it relating to the format of the authorisations shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 26 (2).

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↓ 11/98 Art. 1.6 (adapted)

5. Authorisations shall entitle their holder(s) to operate regular services in the territories of all Member States over which the routes of the service pass.

6. The operator of a regular service may use additional vehicles to deal with temporary and exceptional situations.

In this case, the carrier ~~must~~ ☒ shall ☒ ensure that the following documents are carried on the vehicle:

- (a) a copy of the authorisation of the regular service~~;~~
  - (b) a copy of the contract between the operator of the regular service and the undertaking providing the additional vehicles or an equivalent document~~;~~
  - (c) a certified true copy of the Community licence issued to the operator of the regular service.
- 

↓ 684/92, 11/98 Art. 1.7  
(adapted)

#### *Article ~~76~~*

#### *Submission of application for authorisation*

1. Applications for authorisation of regular services shall be submitted to the competent authorities of the Member State in whose territory the place of departure is situated~~;~~

~~hereinafter referred to as the «authorising authority». The place of departure shall mean «one of the termini of the service».~~

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↓ 684/92; 11/98 Art. 1.7  
(adapted)

~~2. Applications shall conform to a model drawn up by the Commission in accordance with the procedure laid down in Article 16a.~~

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↓ new

2. The measures designed to amend non-essential elements of this Regulation by supplementing it relating to the format of the applications shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 26 (2).

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↓ 11/98 Art. 1.7

3. Persons applying for authorisation shall provide any further information which they consider relevant or which is requested by the authorising authority, in particular a driving schedule making it possible to monitor compliance with Community legislation on driving and rest periods and a copy of the Community licence for international carriage of passengers by road for hire or reward provided for in Article ~~3a~~4.

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↓ 11/98 Art. 1.8 (adapted)  
⇒ new

#### *Article ~~7~~8* *Authorising procedure*

1. Authorisations shall be issued in agreement with the authorities of all the Member States in whose territories passengers are picked up or set down. The authorising authority shall forward to such authorities, == as 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.

2. The competent authorities of the Member States whose agreement has been requested shall notify the authorising authority of their decision on the application within two months. This time limit shall be calculated from the date of receipt of the request for an opinion which is shown in the acknowledgement of receipt. If ~~within this period~~ the authorising authority ~~has received no reply~~ ☒ does not receive a reply within two months ☒, the authorities consulted shall be deemed to have given their agreement and the authorising authority ~~shall~~ ⇒ may ⇐ grant the authorisation.

~~The authorities of the Member States whose territories are crossed without passengers being picked up or set down may notify the authorizing authority of their comments within the time limits laid down in the first subparagraph.~~

3. ~~Subject to paragraphs 7 and 8,~~ The authorising authority shall take a decision on the application within four months of the date of submission of the application by the carrier.

4. Authorisation shall be granted unless:

- (a) the applicant is unable to provide the service which is the subject of the application with equipment directly available to him;
- (b) in the past 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 ~~⇒ a ⇐~~ serious ~~breaches~~ ~~⇒ infringement or repeated minor infringements ⇐~~ of legislation in regard to road safety, in particular with regard to the rules applicable to vehicles and driving and rest periods for drivers;
- (c) in the case of an application for renewal of authorisation, the conditions of authorisation have not been complied with;
- ~~(d) it is shown that the service in question would directly compromise the existence of regular services already authorized, except in cases in which the regular services in question are carried out by a single carrier or group of carriers only;~~
- ~~(e) it appears that the operation of services covered by the application is aimed only at the most lucrative of the services existing on the links concerned;~~
- ~~(f) a Member State decides on the basis of a detailed analysis that the said service~~ ~~⊗~~ ~~concerned~~ ~~⊗~~ ~~would seriously affect the viability of a comparable rail service~~ ~~⇒ operated under a public service contract which stipulates a public service obligation as defined in Regulation (EC) No nnnn/yyyy of the European Parliament and of the Council on public passenger transport services by rail and road~~ ~~⇐ on the direct sections concerned. Any decision pursuant to this provision, together with the reasons therefor, shall be notified to the carriers affected.~~

~~As from 1 January 2000,~~ In the event that an existing international bus service is seriously affecting the viability of a comparable ~~rail~~ service ~~⇒ operated under a public service contract which stipulates a public service obligation as defined in Regulation (EC) No nnnn/yyyy of the European Parliament and of the Council on public passenger transport services by rail and road~~ ~~⇐ on the direct sections concerned, a Member State may, with the agreement of the Commission, suspend or withdraw the authorisation to run the international bus service after having given six months' notice to the carrier.~~

The fact that a carrier offers lower prices than are offered by other road carriers or the fact that the link in question is already operated by other road carriers ~~may~~ ~~⇒ shall ⇐~~ not in itself constitute justification for rejecting the application.

5. The authorising authority and the competent authorities of all the Member States involved in the procedure to reach the agreement provided for in paragraph 1 may refuse applications only on the basis of reasons ~~compatible with~~ ~~⊗~~ provided for in ~~⊗~~ this Regulation.

~~9.6. Having completed the procedure laid down in  $\square$  paragraphs 1 to 5 of  $\square$  this Article, the authorising authority shall inform all the authorities referred to in paragraph 1 of its decision, sending them a copy of any authorisation  $\Rightarrow$  grant the authorisation or formally refuse the application  $\Leftarrow$  ; the competent authorities of the transit Member States may indicate that they do not wish to be so informed.~~

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$\Downarrow$  684/92, Art. 8(2) (adapted)

Decisions refusing an application ~~must~~  $\square$  shall  $\square$  state the reasons on which they are based. Member States shall ensure that transport undertakings are given the opportunity to make representations in the event of their application being refused.

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$\Downarrow$  11/98 Art. 1.8 (adapted)  
 $\Rightarrow$  new

$\Rightarrow$  The authorising authority shall inform all the authorities referred to in paragraph 1 of its decision, sending them a copy of any authorisation.  $\Leftarrow$

~~6.7. If the procedure for reaching the agreement referred to in paragraph 1 does not enable the authorising authority to decide on an application, the matter may be referred to the Commission within the time limit of five  $\Rightarrow$  one  $\Leftarrow$  months calculated from the date of submission of the application by the carrier  $\Rightarrow$  communication of a negative decision by one or more of the Member States consulted pursuant to paragraph 1  $\Leftarrow$ .~~

~~7.8. After  $\square$  having consulted  $\square$  consulting the Member States concerned, the Commission shall within ten weeks  $\Rightarrow$  four months from receipt of the communication from the authorising authority  $\Leftarrow$  take a decision which shall take effect within  $\square$  after  $\square$  thirty days of the notification of  $\square$  to  $\square$  the Member States concerned.~~

~~8.9. The Commission decision shall continue to apply until such time as agreement is reached between the Member States concerned.~~

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$\Downarrow$  684/92 (adapted)  
 $\rightarrow$  11/98 Art. 1.9

### Article 98

#### ~~Grant and $\square$ Renewal $\square$ and alteration $\square$ of authorisations~~

~~1. Once the procedures referred to in Article 7 have been completed, the authorising authority shall grant the authorisation or shall formally refuse the application.~~

~~2. Decisions refusing an application must state the reasons on which they are based. Member States shall ensure that transport undertakings are given the opportunity to make representations in the event of their application being refused.~~



~~3.~~ Article ~~7~~8 shall apply, *mutatis mutandis*, to applications for the renewal of authorisations or for alteration of the conditions under which the services subject to authorisation must be carried out.

In the event of a minor alteration to the operating conditions, in particular adjustment ➔<sub>1</sub> of intervals ⬅ of fares and timetables, the authorising authority need only supply the other Member States concerned with the information in question ⊗ relating to the alteration ⊗.

The Member States concerned may ~~also~~ agree that the authorising authority alone shall decide on alterations to the conditions under which a service is operated.

#### *Article ~~10~~9* *Lapse of an authorisation*

1. Without prejudice to ⊗ the provisions of Regulation (EC) No XX/aaaa on public service obligations for passenger transport services by rail and road<sup>17</sup> ⊗ ~~Article 14 of Regulation (EEC) No 1191/69<sup>18</sup>~~, an authorisation for a regular service shall lapse at the end of its period of validity or three months after the authorising authority has received ⊗ notice ⊗ from its holder ~~notice~~ of his intention to withdraw the service. Such notice ~~must~~ ⊗ shall ⊗ contain a proper statement of reasons.

2. Where demand for a service has ceased to exist, the period ~~mentioned~~ ⊗ of notice provided for ⊗ in paragraph 1 shall be ~~reduced to~~ one month.

3. The authorising authority shall inform the competent authorities of the other Member States concerned that the authorisation has lapsed.

~~54.~~ The holder of the authorisation shall notify users of the service concerned of its withdrawal one month beforehand by means of appropriate publicity.

#### *Article ~~10~~11* *Obligations of carriers*

1. Save in the event of *force majeure*, the operator of a regular service shall, until the authorisation expires, take all measures to guarantee a transport service that fulfils the standards of continuity, regularity and capacity and complies with the other conditions laid down by the competent authority in accordance with Article ~~56~~5 (3).

2. The carrier shall display the route of the service, the bus stops, the timetable, the fares and the conditions of carriage ~~insofar as these are not laid down by law~~ in such a way as to ensure that such information is readily available to all users.

3. Without prejudice to ⊗ (EC) No XX/aaaa on public service obligations for passenger transport services by rail and road ⊗ ~~(EEC) No 1191/69~~, it shall be possible for the Member

<sup>17</sup>

OJ L, p.

<sup>18</sup>

~~Council Regulation (EEC) No 1191/69 of 26 June 1969 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway (OJ No L 156, 28. 6. 1969, p. 1). Regulation last amended by Regulation (EEC) No 1893/91 (OJ No L 169, 29. 6. 1991, p. 1).~~

States concerned, by common agreement and in agreement with the holder of the authorisation, to make changes to the operating conditions governing a regular service.

## **SECTION III CHAPTER IV**

↓ 11/98 Art. 1.11

### **Occasional services and other services exempt from authorisation**

↓ 11/98 Art. 1.12 (adapted)  
⇒ new

#### *Article ~~12~~<sup>11</sup>*

#### *~~Journey form~~ ☒ Control documents ☒*

1. ~~The~~ ☒ Occasional ☒ services ~~referred to in Article 4 (1)~~ shall be carried out under cover of a journey form ☒ with the exception of the services referred to in the second subparagraph of Article 5 (3) ☒.

2. A carrier operating occasional services shall fill out a journey form before each journey.

3. The journey form shall contain at least the following information:

- (a) the type of service;
- (b) the main itinerary;
- (c) the carrier(s) involved.

⇒ 4. The measures designed to amend non-essential elements of this Regulation by supplementing it relating to the format of the journey form and the way in which it is to be used shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 26 (2). ⇐

45. The books of journey forms shall be supplied by the competent authorities of the Member State where the transport undertaking is established or by bodies appointed by those authorities.

⇒ 6. The measures designed to amend non-essential elements of this Regulation by supplementing it relating to the format of the book of journey forms and the way in which it is to be used shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 26 (2). ⇐

~~5. The Commission shall, in accordance with the procedure provided for in Article 16a, lay down the model for the journey form and the way in which it is to be used.~~

⇒ 7. In the case of the special regular services referred to in the third subparagraph of Article 5 (2), the contract or a certified true copy of it shall serve as the control document. ⇐

↓ 684/92 (adapted)  
→ 11/98 Art. 1.14

*Article ~~13~~<sup>12</sup>*  
*Local excursions*

Within the framework of an international occasional service, a carrier may carry out occasional services (local excursions) in a Member State other than that in which it is established.

Such services shall be intended for non-resident passengers previously carried by the same carrier on one of the international services mentioned in the first ~~sub~~paragraph and must be carried out with the same vehicle or another vehicle from the same carrier or group of carriers.

**~~SECTION IV~~**

**~~OWN-ACCOUNT TRANSPORT OPERATIONS~~**

*~~Article 13~~*

~~1. Own account road transport operations defined in point 4 of Article 2 shall be exempt from any system of authorization but shall be subject to a system of certificates.~~

↓ 684/92  
→<sub>1</sub> 11/98 Art. 1.14

~~3. The certificates provided for in paragraph 1 shall be issued by the competent authority of the Member State in which the vehicle is registered and shall be valid for the entire journey including transit.~~

~~They must conform to a model determined by the Commission →<sub>1</sub> in accordance with the procedure laid down in Article 16a ←.~~

## CHAPTER V

### ✧ Cabotage ✧

#### Article 14

##### ✧ Principle ✧

1. Any carrier who operates road passenger transport services for hire or reward, and who holds ~~the~~ ✧ a ✧ Community licence ~~provided for in Article 3a of Council Regulation (EEC) No 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus (1),~~ shall be permitted, under the conditions laid down in this ~~Regulation Chapter~~ and without discrimination on grounds of the carrier's nationality or place of establishment, temporarily to operate ~~national road passenger services for hire or reward~~ ✧ the cabotage transport operations as specified in Article 15 ✧ ~~in another Member State, hereinafter referred to as the 'host Member State', without being required to have a registered office or other establishment in that State.~~

~~Such national transport services are hereinafter referred to as 'cabotage transport operations'.~~

#### Article 5

2. ~~The Community licence or a~~ certified true copy ✧ of the Community licence ✧ ~~thereof~~ shall be kept on board the vehicle and be produced when requested by an authorised inspecting officer.

#### Article 15

##### ✧ Authorised cabotage transport operations ✧

Cabotage transport operations shall be authorised for the following services:

~~(1)~~(a) special regular services provided that they are covered by a contract concluded between the organiser and the carrier;

~~(2)~~(b) occasional services;

~~(3)~~(c) regular services, ~~provided they are~~ performed by a carrier not resident in the host Member State in the course of a regular international service in accordance with this Regulation (EEC) No 684/92 ✧ 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 transport ✧ operations ✧ ~~cannot~~ ✧ shall not ✧ be performed independently of such international service. ~~Urban and suburban services shall be excluded from the scope of this point.~~

~~'Urban and suburban services' means transport services meeting the needs of an urban centre or conurbation, and transport needs between it and the surrounding areas.~~

*Article 164*

*⊗ Rules applicable to cabotage transport operations ⊗*

1. The performance of the cabotage transport operations referred to in Article ~~3~~15 shall be subject, save as otherwise provided in Community legislation, to the laws, regulations and administrative provisions in force in the host Member State in relation to the following areas:

(a) ~~rates and~~ conditions governing the transport contract;

(b) weights and dimensions of road vehicles; ~~such weights and dimensions may, where appropriate, exceed those applicable in the carrier's Member State of establishment, but they may under no circumstances exceed the technical standards set out in the certificate of conformity;~~

(c) requirements relating to the carriage of certain categories of passengers, ~~viz.~~ ~~⊗~~ namely ~~⊗~~ schoolchildren, children and persons with reduced mobility;

(d) ~~⇒~~ working time, ~~⇐~~ driving ~~⊗~~ time ~~⊗~~ and rest ~~time~~ ~~⊗~~ periods ~~⊗~~ ;

(e) VAT (value added tax) on transport services; ~~in this area Article 21 (1) (a) of Council Directive 77/388/EEC of 17 May 1977 on the harmonization of the laws of the Member States relating to turnover taxes – common system of value added tax: uniform basis of assessment<sup>19</sup> shall apply to the services referred to in Article 1 of this Regulation.~~

~~such~~ ~~⊗~~ The ~~⊗~~ weights and dimensions ~~⊗~~ referred to in point (b) ~~⊗~~ may, where appropriate, exceed those applicable in the carrier's Member State of establishment, but they may under no circumstances exceed ~~⇒~~ the limits set by the host Member State for national traffic or ~~⇐~~ the technical ~~standards set out in the certificate of conformity~~ ~~⊗~~ characteristics mentioned in the proofs referred to in Article 6(1) of Directive 96/53<sup>20</sup> ~~⊗~~;

2. Save as otherwise provided in Community legislation, cabotage transport operations which form part of the transport services provided for in Article ~~3(3)~~ 15 (c) shall be subject to the ~~existing~~ laws, regulations and administrative provisions in force in the host Member State regarding authorisations, tendering procedures, the routes to be operated and the regularity, continuity and frequency of services as well as itineraries.

3. The technical standards of construction and equipment which must be met by vehicles used to carry out cabotage transport operations shall be those laid down for vehicles put into circulation in international transport.

4. The national ~~⊗~~ laws, regulations and administrative ~~⊗~~ provisions referred to in paragraphs 1 and 2 shall be applied by the Member States to non-resident carriers ~~on~~

<sup>19</sup> ~~Council Directive 77/388/EEC of 17 May 1977 on the harmonization for the laws of the Member States relating to turnover taxes – common system of value added tax: uniform basis of assessment (OJ No L 145, 13. 6. 1977, p. 1). Directive as last amended by Directive 92/111/EEC (OJ No L 384, 30. 12. 1992, p. 47).~~

<sup>20</sup> OJ L 235, 17.9.1996, p.59.

~~⊗~~ under ~~⊗~~ the same conditions as ~~these~~ ~~⊗~~ are ~~⊗~~ imposed on their own nationals, so as effectively to prevent any ~~open or hidden~~ discrimination on grounds of nationality or place of establishment.

~~5. If it is established that, in the light of experience, the list of areas covered by the host Member State's provisions, as referred to in paragraph 1, needs to be amended, the Council shall do so by a qualified majority, on a proposal from the Commission.~~

#### *Article 176*

#### *⊗ Control documents for cabotage transport operations ⊗*

1. Cabotage transport operations in the form of occasional services shall be carried out under cover of a ~~control document~~ the journey form - ~~⊗~~ as referred to in Article 12 ~~⊗~~ which must be kept on board the vehicle and be produced when requested by an authorised inspecting officer.

~~2. The journey form, the model for which shall be adopted by the Commission in accordance with the procedure laid down in Article 8, shall comprise:~~ The following information ~~⊗~~ shall be entered in the journey form ~~⊗~~ :

(a) the points of departure and destination 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 agency in the Member State of establishment. ~~The model for the book of journey forms shall be adopted by the Commission in accordance with the procedure laid down in Article 8.~~

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

However, ~~the~~ ~~⊗~~ a ~~⊗~~ journey form shall be ~~completed~~ ~~⊗~~ filled out ~~⊗~~ in the form of a monthly statement.

5. The journey forms used shall be returned to the competent authority or agency in the Member State of establishment in accordance with procedures to be laid down by that authority or agency.

#### *Article 7*

~~1. At the end of each quarter and within three months, which may be reduced by the Commission to one month in the case referred to in Article 9, the competent authority or agency in each Member State shall communicate to the Commission the data concerning cabotage transport operations, in the form of special regular services and occasional services, carried out during the quarter in question by resident carriers.~~

~~The communication shall be effected by means of a table conforming to the model adopted by the Commission in accordance with the procedure laid down in Article 8.~~

~~2. Once a year the competent authorities in the host Member State shall send the Commission statistics on the number of authorizations issued for cabotage transport operations in the form of the regular services referred to in Article 3 (3).~~

~~3. The Commission shall send to the Member States, as soon as possible, summary statements drawn up on the basis of the data submitted under paragraph 1.~~

#### ~~Article 9~~

~~1. In the event of serious disturbance of the internal transport market in a given geographical area due to or aggravated by cabotage, any Member State may refer the matter to the Commission with a view to the adoption of safeguard measures and shall provide the Commission with the necessary information and notify it of the measures it intends to take as regards resident carriers.~~

~~2. For the purposes of paragraph 1:~~

~~'serious disturbance of the internal transport market in a given geographical area' means the occurrence on that market of problems specific to it, such that there is a serious and potentially enduring excess of supply over demand, implying a threat to the financial stability and survival of a significant number of road passenger transport undertakings;~~

~~'geographical area' means an area comprising part or all of the territory of a Member State or including part or all of the territory of other Member States.~~

~~3. The Commission shall examine the situation and, after consulting the advisory committee referred to in Article 10, shall decide within one month of receipt of the relevant Member State's request whether or not safeguard measures are necessary and shall adopt them if they are necessary.~~

~~The measures introduced in accordance with this Article shall remain in force for a period not exceeding six months, renewable once for the same period.~~

~~The Commission shall without delay notify the Member States and the Council of any decision taken pursuant to this paragraph.~~

~~4. If the Commission decides to take safeguard measures concerning one or more Member States, the competent authorities of the Member States involved shall be required to take measures of equivalent scope in respect of resident carriers and shall inform the Commission thereof.~~

~~These measures shall be implemented no later than the same date as the safeguard measures decided on by the Commission.~~

~~5. Each Member State may refer a Commission decision as referred to in paragraph 3 to the Council within 30 days of its notification.~~

~~The Council, acting by a qualified majority within 30 days of referral by a Member State or, if there are referrals by more than one Member State, of the first referral, may take a different decision.~~

~~The limits of validity laid down in the second subparagraph of paragraph 3 shall apply to the Council's decision.~~

~~The competent authorities of the Member States concerned shall be bound to take measures of equivalent scope in respect of resident carriers and shall inform the Commission thereof.~~

~~If the Council takes no decision within the period laid down in the second subparagraph, the Commission decision shall become final.~~

~~6. Where the Commission considers that the measures referred to in paragraph 3 need to be prolonged, it shall submit a proposal to the Council, which shall take a decision by qualified majority.~~

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↓ 684/92 (adapted)

## ~~SECTION V~~ CHAPTER VI

### **Controls and ~~penalties~~ ☒ sanctions ☒**

#### *Article ~~1814~~* *Transport tickets*

1. ~~Passengers using~~ ☒ Carriers operating ☒ a regular service, excluding special regular services, shall ~~throughout their journey possess~~ ☒ issue ☒ transport tickets, either individual or collective, which indicate:

- (a) the points of departure and destination and, where appropriate, the return journey;
- (b) the period of validity of the ticket;

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↓ 11/98 Art. 1.15

- (c) the price of transport.

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↓ 684/92 (adapted)

2. The transport ticket provided for in paragraph 1 shall be presented at the request of any authorised inspecting officer.



*Article ~~1945~~*  
*Inspections on the road and in undertakings*

1. The authorisation or control document shall be carried on the vehicle and shall be presented at the request of any authorised inspecting officer.

~~In the case of the services covered by Article 4 (2), the contract or a certified true copy of it shall serve as a control document.~~

2. Carriers operating coaches and buses in international passenger transport shall allow all inspections intended to ensure that operations are being conducted correctly, in particular as regards driving and rest periods. In the context of ☒ the ☒ implementation of this Regulation, authorised inspecting officers shall be empowered to:

- (a) check the books and other documentation relating to the operation of the transport undertaking;
- (b) make copies of, or take extracts from, the books and documentation on the premises;
- (c) have access to all the transport undertaking's premises, sites and vehicles;
- (d) require the production of any information contained in books, documentation or data bases.

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↓ 12/98 (adapted)  
⇒ new

*Article ~~2044~~*  
*☒ Mutual assistance ☒*

~~1.~~ Member States shall assist one another in applying this Regulation. ⇒ They shall exchange information via the national contact points established pursuant to Article 17 of Regulation (EC) No. xx/xxxx [admission to the occupation]. ⇐

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↓ 684/92 Art. 16 (5)

~~Member States shall on request provide each other with any relevant information in their possession concerning:~~

~~— breaches of this Regulation and of any other Community rules applicable to the international carriage of passengers by coach and bus committed in their territory by a carrier from another Member State, and the penalties imposed;~~

~~— the penalties imposed on their own carriers in respect of breaches committed in the territory of another Member State.~~

Article 21~~46~~

~~Penalties and mutual assistance~~

~~Withdrawal of Community licences and authorisations~~

1. The competent authorities of the Member State where the carrier is established shall withdraw the Community licence provided for in Article ~~20~~<sup>4</sup> where the holder:

- (a) no longer meets the conditions laid down in Article 3 (1)<sub>2</sub>;
- (b) has supplied inaccurate information concerning the data which were required for the issue of the Community licence.

2. The authorising authority shall withdraw an authorisation if the holder no longer fulfils the conditions on the basis of which the authorisation was issued under this Regulation, in particular where the Member State in which the carrier is established so requests. The authority shall immediately inform the competent authorities of the Member State concerned.

Article 22

~~Sanctioning of infringements by Member State of establishment~~

~~1.3.~~ In the ~~case~~ ~~event~~ ~~of a serious breach~~ ~~infringement~~ ~~or repeated minor breaches~~ ~~infringements~~ ~~of road safety regulations~~ ~~Community road transport legislation committed or ascertained in any Member State~~, in particular with regard to the rules applicable to vehicles, driving and rest periods for drivers and the provision without authorisation of parallel or temporary services, as referred to in Article ~~2(1.3)~~ <sup>5(1)</sup>, ~~fourth subparagraph~~, the competent authorities of the Member State of establishment of the carrier who committed the ~~breach~~ ~~infringement~~ ~~shall issue a warning and may, inter alia, withdraw the Community licence or make~~ ~~impose the following administrative sanctions:~~

- (a) temporary ~~and/or partial withdrawals~~ ~~or permanent withdrawal of some or all~~ ~~of the certified true copies of the Community licence;~~
- (b) ~~temporary or permanent withdrawal of the Community licence.~~

These ~~penalties~~ ~~sanctions~~ shall be determined ~~in accordance with~~ ~~having regard to~~ ~~the seriousness of the breach~~ ~~infringement~~ ~~committed by the holder of the Community licence and with~~ ~~having regard to~~ ~~the total number of certified true copies that he possesses in respect of his international trade~~ ~~transport services~~.

~~2.4.~~ The competent authorities of the Member States shall prohibit a carrier from operating ~~on their territory~~ an international passenger service under this Regulation ~~on their territory~~ ~~if he repeatedly commits serious breaches~~ ~~infringements~~ ~~of the regulations governing road safety~~ ~~Community road transport legislation~~, in particular with regard to the rules applicable to vehicles and driving and rest periods for drivers. They shall immediately inform the competent authorities of the Member State concerned.

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↓ new

3. In the case referred to in Article 23 (1) the competent authorities of the Member State of establishment shall decide whether a sanction shall be imposed on the carrier concerned. They shall communicate to the competent authorities of the Member State in which the infringements were ascertained as soon as possible and at the latest within three months from receiving knowledge of the infringement which of the sanctions provided for in paragraphs 1 and 2 have been imposed. If it has not been possible to impose such sanctions, they shall state the reasons.

4. The authorities shall take into account any sanction already imposed in the other Member State and ensure that the sanctions imposed on the carrier concerned are, as a whole, proportionate to the infringement or infringements which gave rise to such sanctions.

The sanction imposed by the competent authorities of the Member State of establishment, after consulting the competent authorities of the host Member State in the case referred to in Article 23 (1) may include the withdrawal of authorisation to pursue the occupation of road transport operator.

5. The competent authorities of the Member State of establishment may also, pursuant to its national law, bring proceedings against the carrier concerned before a competent national court or tribunal. It shall inform the competent authorities of the host Member State of the decisions taken pursuant to this paragraph.

6. Member States shall ensure that hauliers may appeal to the courts against any administrative sanction imposed on them pursuant to this Article.

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↓ 11/98 Art. 1.16

~~5. Member States shall on request provide each other with any relevant information in their possession concerning:~~

~~— breaches of this Regulation and of any other Community rules applicable to the international carriage of passengers by coach and bus committed in their territory by a carrier from another Member State, and the penalties imposed,~~

~~— the penalties imposed on their own carriers in respect of breaches committed in the territory of another Member State.~~

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↓ new

### *Article 23*

#### *Sanctioning of infringements by host Member State*

1. Where the competent authorities of a Member State are aware of a serious infringement or of repeated minor infringements of this Regulation or of Community road transport legislation

attributable to a carrier from another Member State, the Member State within the territory of which the infringement is ascertained shall transmit to the competent authorities of the Member State of establishment as soon as possible but at the latest within one month from receiving knowledge of the infringement the following information:

- (a) a description of the infringement and date, time when it was committed;
- (b) the category, type and seriousness of the infringement;
- (c) the penalties imposed and the penalties executed.

The competent authorities of the host Member State may request the competent authorities of the Member State of establishment to impose administrative sanctions in accordance with this Regulation.

↓ 12/98 (adapted)  
⇒ new

2. Without prejudice to criminal prosecution, the host Member State may impose ~~penalties~~ ☒ sanctions ☒ on non-resident carriers who have committed infringements of this Regulation or of Community or national transport regulations within its territory on the occasion of a cabotage transport operation. The ~~penalties~~ ☒ sanctions ☒ shall be imposed on a non-discriminatory basis and ~~in accordance with paragraph 3.3. The penalties referred to in paragraph 2~~ may, inter alia, consist of a warning ☒ and/ ☒ or, in the event of ☒ a ☒ serious ☒ infringement ☒ or repeated ☒ minor ☒ infringements, a temporary ban on cabotage transport operations within the territory of the host Member State where the infringement was committed.

⇒ 3. Member States shall ensure that hauliers may appeal to the courts against any administrative sanction imposed on them pursuant to this Article. ⇐

~~Where a falsified Community licence, falsified authorization or falsified certified true copy thereof is produced, the falsified document shall be withdrawn immediately and, where appropriate, forwarded as soon as possible to the competent authority of the carrier's Member State of establishment.~~

~~4. The competent authorities of the host Member State shall inform the competent authorities of the Member State of establishment of the infringements recorded and any penalties imposed on the carrier and may, in the event of serious or repeated infringements, at the same time transmit a request that a penalty be imposed.~~

~~In the event of serious or repeated infringements, the competent authorities of the Member State of establishment shall decide whether an appropriate penalty should be imposed on the carrier concerned; these authorities shall take into account any penalty already imposed in the host Member State and ensure that the penalties already imposed on the carrier concerned are, as a whole, proportional to the infringements or infringements which gave rise to such penalties.~~

~~The penalty imposed by the competent authorities of the Member State of establishment, after consulting the competent authorities of the host Member State, may extend to withdrawal of authorization to pursue the occupation of road passenger transport operator.~~

~~The competent authorities of the Member State of establishment may also, pursuant to its national law, arraign the carrier concerned before a competent national court or tribunal.~~

~~They shall inform the competent authorities of the host Member State of the decisions taken pursuant to this paragraph.~~

#### ~~Article 12~~

~~Member States shall ensure that carriers may appeal to the courts against any administrative penalty imposed on them.~~

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↓ new

#### *Article 24*

##### *Entry in national register*

Member States shall ensure that serious infringements or repeated minor infringements of Community road transport legislation committed by carriers established in their territory which have led to the imposition of a sanction as well as the sanctions imposed are recorded in the national register of road transport undertakings as established under Regulation (EC) No xx/xxxx [admission to the occupation]. Those entries in the registry which concern a temporary or permanent withdrawal of a Community licence shall remain in the database for at least two years.

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↓ 11/98 Art. 1.17 (adapted)

#### ~~Article 16a~~

~~Where the procedure referred to in this Article is to be followed the Commission shall be assisted by the advisory committee set up by Council Regulation (EC) No 12/98 of 11 December 1997, laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State<sup>21</sup> and chaired by the representative of the Commission.~~

~~The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.~~

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<sup>21</sup> ~~OJ No L 4, 8. 1. 1998, p. 10.~~

~~The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.~~

~~The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.~~

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↓ 12/98 (adapted)

~~Article 13~~

~~1. The Commission shall report to the European Parliament and the Council before 30 June 1998 on the results of the application of Regulation (EEC) No 2454/92 and the operation of regular services in the Member States.~~

~~2. The Commission shall report to the European Parliament and the Council by 31 December 1999 at the latest on the application of this Regulation and, in particular, on the impact of cabotage transport operations on national transport markets.~~

~~Article 15~~

~~This Regulation shall enter into force on the first day following that of its publication in the Official Journal of the European Communities.~~

~~It shall apply from 11 June 1999.~~

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↓ 684/92 (adapted)

~~**SECTION VI**~~ **CHAPTER VII**

~~**Transitional and final provisions**~~ **Implementation**

~~Article 17~~

~~Transitional provision~~

~~Authorizations for services existing on the date of entry into force of this Regulation shall continue to be valid until they expire insofar as the services in question remain subject to authorization.~~

*Article ~~18~~ 25*  
*Agreements between Member States*

1. Member States may conclude bilateral and multilateral agreements on the further liberalization of the services covered by this Regulation, in particular as regards the authorisation system and the simplification or abolition of control documents.
2. Member States shall inform the Commission of any agreements concluded under paragraph 1.

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↓ new

*Article 26*  
*Committee*

1. The Commission is assisted by the committee established by Article 18 (1), of Council Regulation (EEC) No 3821/85<sup>22</sup>.

2. Where reference is made to this paragraph, Article 5a (1) to (4) and (5) (b), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The time limits laid down in Article 5a (3)(c), (4)(b) and (4)(e) of Decision 1999/468/EC shall be one month.

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↓ 12/98

~~*Article 14*~~

~~Member States shall adopt in good time the laws, regulations and administrative provisions necessary for implementation of this Regulation and shall communicate them to the Commission.~~

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↓ 684/92 (adapted)

*Article ~~27~~ 19*  
~~*Implementation*~~ ☒ ~~*Sanctions*~~ ☒

~~Member States shall, before 1 June 1992 and after consulting the Commission, adopt the measures necessary for the implementation of this Regulation and notify such measures to the Commission.~~

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<sup>22</sup> OJ L 370, 31.12.1985, p. 8.

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↓ 11/98 Art. 1.18 (adapted)

Member States shall adopt measures relating in particular to ~~the means of carrying out checks and the system of penalties~~ ☒ sanctions ☒ applicable to infringements of the provisions of this Regulation, and take all the measures necessary to ensure that those ~~penalties~~ ☒ sanctions ☒ are applied. The ~~penalties~~ ☒ sanctions ☒ thus provided for shall be effective, proportionate and dissuasive. Member States shall notify the relevant measures to the Commission within 12 months of the date on which this Regulation comes into force and shall notify any subsequent changes as soon as possible. They shall ensure that all such measures are applied without discrimination as to the nationality or place of establishment of the carrier.

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↓ new

#### *Article 28* *Reporting*

1. By 31 January each year Member States shall communicate to the Commission the number of authorisations for regular services issued the previous year and of the total numbers of authorisations for regular services valid at the end of this reporting period. This information shall be given separately for each country of destination of the regular service. The Member States shall also communicate to the Commission the data concerning cabotage transport operations, in the form of special regular services and occasional services, carried out during the reporting period by resident carriers.

2. By 31 January each year the competent authorities in the host Member State shall send the Commission statistics on the number of authorisations issued for cabotage transport operations in the form of the regular services referred to in Article 15 (3).

3. The measures designed to amend non-essential elements of this Regulation by supplementing it relating to the format of the table to be used for the communication of these statistics shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 26 (2).

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↓ 11/98 Art. 1.3 (adapted)

9.4. Member States shall inform the Commission no later than 31 January of every year of the number of carriers holding a Community licence as at 31 December of the previous year and of the number of certified true copies corresponding to the number of vehicles in circulation on that date.



~~Article 20~~

~~Commission report and proposal~~

~~1. Before 1 July 1995 the Commission shall report to the Council on the application of this Regulation. Before 1 January 1996 it shall submit to the Council a proposal for a Regulation on the simplification of procedures including — in the light of the report's conclusions — the abolition of authorizations.~~

~~2. Before 1 January 1997 the Council shall act by qualified majority on the Commission proposal referred to in paragraph 1.~~

~~Article 21~~

~~Repeals~~

~~1. Regulations No 117/66/EEC, (EEC) No 516/72 and (EEC) No 517/72 are hereby repealed.~~

~~2. References to the Regulations repealed shall be taken as references to this Regulation.~~

~~Article 22~~

~~Entry into force and application~~

~~This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Communities.~~

~~It shall apply from 1 June 1992.~~



## CHAPTER VIII

### Final provisions

Article 29

Repeals

1. Regulations (EEC) 684/92 and (EC) 12/98 are repealed.

2. References to the repealed Regulations shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.

*Article 30*  
*Entry into force and application*

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

It shall apply from [date of application].

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*

↓ 11/98 Art. 1, pt. 19 (adapted)  
→<sub>1</sub> 1791/2006 Annex pt. 6(B)(3)  
→<sub>2</sub> Accession Act of 2003  
⇒ new

**ANNEX ☒ I ☒**

**EUROPEAN COMMUNITY**

**(a)**

(~~Heavy duty, blue dimension DIN A4~~ ☒ Light blue, format DIN A4 synthetic paper, 150g/m<sup>2</sup> or more ☒)

(First page of the licence)

(Text in the official language(s) or one of the official languages of the  
Member State issuing the licence)

Distinctive symbol of the Member State (1)  
issuing the licence

Designation of the competent authority  
or body

**LICENCE No ...**

⇒ CERTIFIED TRUE COPY No ⇐

**for the international carriage of passengers by coach and bus for hire or reward**

The holder of this licence (2) .....

.....  
.....

is authorised to carry out international carriage of passengers by road for hire or reward in the territory of the  
Community pursuant to the conditions laid down by ~~Council Regulation (EEC) No 684/92 of 16 March 1992, as  
amended by Regulation (EC) No 11/98~~ ☒ Regulation (EC) No .../... of the European Parliament and of the  
Council ☒ and in accordance with the general provisions of this licence.

Comments: .....

.....

This licence is valid from ..... to .....

Issued in ..... on .....

..... 23

(1) The distinguishing signs of the Member States are: (B) Belgium, →<sub>1</sub> (BG) Bulgaria, ← →<sub>2</sub> (CZ) Czech Republic, ← (DK) Denmark,  
(D) Germany, →<sub>2</sub> (EST) Estonia, ← (IRL) Ireland, (GR) Greece, (E) Spain, (F) France, (I) Italy, →<sub>2</sub> (CY) Cyprus, (LV) Latvia, (LT)  
Lithuania, ← (L) Luxembourg, →<sub>2</sub> (H) Hungary, (MT) Malta, ← (NL) Netherlands, (A) Austria, →<sub>2</sub> (PL) Poland, ← (P) Portugal,  
→<sub>1</sub> (RO) Romania, ← →<sub>2</sub> (SLO) Slovenia, (SK) Slovakia, ← (FIN) Finland, (S) Sweden, (UK) United Kingdom. (2) Full name or business  
name of the carrier

23

Signature and stamp of the competent authority or body issuing the licence.

(3) Signature and stamp of the competent authority or body issuing the licence

## General provisions

1. This licence is issued pursuant to ~~Council Regulation (EEC) No 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus, as amended by Regulation (EC) No 11/98~~ ☒ (EC) No [...] of the European Parliament and of the Council ☒ on common rules for the international carriage of passengers by coach and bus.
  
2. This licence is issued by the competent authorities of the Member State of establishment of the carrier for hire or reward who:
  - (a) is authorised in the Member State of establishment to undertake carriage by means of regular services, including special regular services or occasional services by coach and bus;
  - (b) satisfies the conditions laid down in accordance with Community rules on admission to the occupation of passenger transport operator in national and international transport operations;
  - (c) meets legal requirements ~~on road safety as far as~~ ☒ regarding ☒ the standards for drivers and vehicles ~~are concerned~~.
  
3. This licence permits the international carriage of passengers by coach and bus for hire or reward on all transport links for journeys carried out in the territory of the Community:
  - (a) where the place of departure and place of destination are situated in two different Member States, with or without transit through one or more Member States or third countries;
  - (b) from a Member State to a third country and vice versa, with or without transit through one or more Member States or third countries;
  - (c) between third countries crossing the territory of one or more Member States in transit,

and empty journeys in connection with transport operations under the conditions laid down by Regulation ~~(EEC) No 684/92~~ ☒ (EC) No [...] ☒.

In the case of a transport operation from a Member State to a third country and vice versa, Regulation ~~(EEC) No 684/92~~ ☒ (EC) No [...] ☒, is applicable, for ☒ the part of the journey on the territory of Member States crossed in transit. ☒ It does not apply to that part of ☒ the journey made in the territory of the Member State of picking up or setting down, ~~once~~ ☒ as long as ☒ the necessary agreement between the Community and the third country ~~in question~~ ☒ concerned ☒ has ☒ not ☒ been concluded.
  
4. This licence is personal and non-transferable.
  
5. This licence may be withdrawn by the competent authority of the Member State of issue in particular where the carrier:
  - (a) no longer meets the conditions laid down in Article 3(1) of Regulation ~~(EEC) No 684/92~~ ☒ (EC) No [.../...]; ☒
  - (b) has supplied inaccurate information regarding the data required for the issue or renewal of the licence;
  - (c) has committed a serious ~~breach~~ ☒ infringement ☒ or repeated minor ~~breaches~~ ☒ infringements ☒ of ~~road safety regulations~~ ☒ ☒ Community road transport legislation in any Member State ☒, in particular with regard to the rules applicable to vehicles, driving and rest periods for drivers and the provision, without authorisation, of parallel or temporary services as referred to in Article ~~2(1.2)~~ ☒ 5(1), third subparagraph, of Regulation ~~(EEC) No 684/92~~ ☒ (EC) No [...] ☒. The competent authorities of the Member State of establishment of the carrier who committed the ~~breach~~ ☒ infringement ☒ may, *inter alia*,

withdraw the Community licence or make temporary ~~and/or partial~~ ☒ or permanent ☒  
withdrawals of ☒ some or all of ☒ the certified true copies of the Community licence.

These penalties are determined in accordance with the seriousness of the breach committed by the holder of the Community licence and with the total number of certified true copies that he possesses in respect of his international ~~trade~~ ☒ transport services ☒.

6. The original of the licence must be kept by the carrier. A certified true copy of the licence must be carried on the vehicle carrying out an international transport operation.
7. This licence must be presented at the request of any inspecting officer.
8. The holder must, on the territory of each Member State, comply with the laws, regulations and administrative measures in force in that State, particularly with regard to transport and traffic.
9. "Regular services" means services which provide for the carriage of passengers at specified intervals along specified routes, passengers being taken up and set down at predetermined stopping points ☒, and which are ☒ open to all, subject, where appropriate, to compulsory reservation.

The regular nature of the service shall not be affected by any adjustment to the service operating conditions.

Regular services require authorisation.

"Special regular services" means regular services which provide for the carriage of specified categories of passengers, to the exclusion of other passengers, at specified intervals along specified routes, passengers being taken up and set down at predetermined stopping points.

Special regular services shall include:

- (a) the carriage of workers between home and work;
- (b) carriage to and from the educational institution for school pupils and students;
- ~~(c) the carriage of soldiers and their families between their homes and the area of their barracks.~~

The fact that a special service may be varied according to the needs of users shall not affect its classification as a regular service.

Special regular services do not require authorisation if they are covered by a contract between the organiser and the carrier.

The organisation of parallel or temporary services, serving the same public as existing regular services, requires authorisation.

"Occasional services" means services which do not fall within the definition of regular services, including special regular services, and whose main characteristic is that they carry groups constituted on the initiative of a customer or of the carrier himself. The organisation of parallel or temporary services comparable to existing regular services and serving the same public as the latter shall be subject to authorisation in accordance with the procedure with the procedure laid down in Section H Chapter III of Regulation ~~(EEC) No 684/92~~ ☒ (EC) No [.../...] ☒. These services shall not cease to be occasional services solely because they are provided at certain intervals.

Occasional services do not require authorisation.



## **ANNEX II**

### **CORRELATION TABLE**

Regulation 684/92	Regulation 12/98	This Regulation
Article 1 (1)		Article 1 (1) amended
-		Article 1 (4) new
Article 2 point 1.1.		Article 2 (a), Article 5 (1)
Article 2 point 1.2.		Article 2 (b), Article 5 (2)
Article 2 point 1.3.		Article 5 (3)
Article 2 point 3.1.		Article 2 (c), Article 5 (3)
Article 2 point 3.3.		Article 5 (3)
Article 2 point 3.4.		Article 5 (3)
Article 2 point 4.		Article 2 (d), Article 5 (5)
-		Article 2 point 4. new
Article 3		Article 3 amended, Article 28
Article 3a		Article 4
Article 4		Article 5 amended
Article 5		Article 6
Article 6		Article 7
Article 7		Article 8 amended
Article 8		Article 9
Article 9		Article 10 amended
Article 10		Article 11
Article 11		Article 12
Article 12		Article 13

Article 13		Article 5 (5) amended
	Article 1	Article 14 amended
	Article 2	Article 2, Article 5
	Article 3	Article 15
	Article 4 (1)	Article 16 (1) amended
	Article 4 (2)	Article 16 (2)
	Article 4 (3)	Article 16 (3)
	Article 4 (4)	Article 16 (4)
	Article 4 (5)	-
	Article 5	Article 4 (3)
	Article 6	Article 17
	Article 7	Article 27 (3) amended
	Article 8	Article 26 amended
	Article 9	-
	Article 10	Article 26 amended
Article 14		Article 18 amended
Article 15		Article 12, Article 19
	Article 11 (1)	Article 20 (1) amended
Article 16 (1)		Article 21 (1)
Article 16 (2)		Article 21 (2)
Article 16 (3)		Article 22 (1) amended
Article 16 (4)		Article 22 (2) amended
Article 16 (5)		Article 24
		Article 23 (1) new
	Article 11 (2)	Article 23 (2)
	Article 11 (3)	Article 23 (2)



	Article 11 (4)	-
	Article 12	Article 22, Article 23
	Article 13	-
Article 16a		-
Article 17		-
Article 18		Article 25
Article 19	Article 14	Article 27
Article 21		Article 29
Article 22	Article 15	Article 30
Annex I		Annex I
		Annex II new