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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	Proposal for a COUNCIL DECISION on the signing, on behalf of the European Union, of a Protocol amending the Agreement on the international occasional carriage of passengers by coach and bus (Interbus Agreement) by extending the possibility of accession to the Kingdom of Morocco

Delegations will find attached document COM(2020) 770 final.

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Brussels, 30.11.2020
COM(2020) 770 final

2020/0342 (NLE)

Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union, of a Protocol amending the Agreement on the international occasional carriage of passengers by coach and bus (Interbus Agreement) by extending the possibility of accession to the Kingdom of Morocco

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The Interbus Agreement on the international occasional carriage of passengers by coach and bus ⁽¹⁾ entered into force on 1 January 2003. The Agreement was later updated by Decision No 1/2011 ⁽²⁾ of the Joint Committee set up in Article 23 of the Agreement.

The geographical scope of the Interbus Agreement is restricted to the member countries of the European Conference of Ministers of Transport (ECMT) and those countries mentioned in Article 30(2) of the Interbus Agreement. Apart from the European Union, the Republic of Albania, the Principality of Andorra, Bosnia and Herzegovina, the Republic of Moldova, Montenegro, the Republic of North Macedonia, the Republic of Turkey and Ukraine are currently Contracting Parties to the Agreement.

The Interbus Agreement is open to accession by countries which are full members of the ECMT. The Kingdom of Morocco is not a full member but has an observer status in the ECMT.

The Interbus Agreement should provide a clear legal basis for the accession of the Kingdom of Morocco.

The possible accession of the Kingdom of Morocco to the Interbus Agreement will contribute to further developing international passenger transport relations, tourism and cultural exchange beyond those countries that are currently Parties to the Interbus Agreement and facilitate their organisation.

On 5 December 2014, the Council authorised the Commission ⁽³⁾ to open negotiations to amend the Interbus Agreement with a view to enlarging its geographical scope to the Kingdom of Morocco.

Following Council Decision (EU) 2018/1211 of 16 July 2018 ⁽⁴⁾, the Protocol amending the Agreement on the international occasional carriage of passengers by coach and bus (Interbus Agreement) by extending the possibility for accession to the Kingdom of Morocco was signed by the European Union, Bosnia and Herzegovina, Montenegro and the Republic of Turkey,

¹ OJ L 321, 26.11.2002, p. 13.

² Decision No 1/2011 of the Joint Committee established under the Interbus Agreement on the international occasional carriage of passengers by coach and bus of 11 November 2011 adopting its rules of procedure and adapting Annex 1 to the Agreement regarding the conditions applying to road passenger transport operators, Annex 2 to the Agreement concerning the technical standards applying to buses and coaches and the requirements concerning the social provisions referred to in Article 8 of the Agreement (2012/25/EU) (OJ L 8, 12.1.2012, p. 38).

³ Council Decision of 5 December 2014 (SGS14/15073).

⁴ Council Decision (EU) 2018/1211 of 16 July 2018 on the signing, on behalf of the European Union, of a Protocol amending the Agreement on the international occasional carriage of passengers by coach and bus (Interbus Agreement) by extending the possibility of accession to the Kingdom of Morocco (OJ L 222, 3.9.2018, p. 1).

subject to its conclusion at a later date. However, the Protocol which was open for signature between 16 July 2018 and 16 April 2019 was not signed by all Contracting Parties before the signature period expired.

On 18 February 2020, the Council authorised the Commission to open negotiations, on behalf of the Union, to amend the Protocol on the Kingdom of Morocco in order to make certain technical changes regarding the signing and entry into force, and to reflect the change in the denomination of one Contracting Party to the Interbus Agreement.

The negotiations were successfully concluded and a new version of the Protocol on the Kingdom of Morocco has been prepared accordingly. Considering that not all Contracting Parties signed the original Protocol, it has been considered more appropriate to replace the whole Protocol by a new one instead of negotiating a Protocol amending the original Protocol.

It should be recalled that international carriage of passengers by coach and bus is an important sectors providing mobility to European citizens with an affordable price structure. Their further development beyond the EU would equally benefit EU citizens, foreign tourists, the tourist industry and European regions.

The possibility of market access should be offered to the Kingdom of Morocco based on the provisions of the Interbus Agreement subject to implementation of the EU acquis in the field of road passenger transport, including road safety, technical provisions, driver qualifications, social rules, passenger rights, environment and admission to the occupation.

In order to avoid governance issues, all Contracting Parties to the Interbus Agreement should sign and approve or ratify the Protocol extending the possibility of accession to the Kingdom of Morocco before this country can join.

In order to allow the Contracting Parties to the Interbus Agreement to sign and conclude the Protocol, it is appropriate that the Protocol should not provide for a specific period during which it is open for signature.

The entry into force of the Protocol is the first day of the month following that when all Interbus Contracting Parties have signed and approved or ratified it.

One Contracting Party has changed its denomination to the Republic of North Macedonia, which should be reflected in the Protocol.

The Protocol now also indicates that the Principality of Andorra has become a Contracting Party to the Interbus Agreement.

The Council Working Party on Land Transport, designated by the Council as a Special Committee under Article 218(4) TFEU was kept continuously informed of the progress in the negotiations.

- **Consistency with existing policy provisions in the policy area**

The Protocol in the attachment to this proposed Council Decision is in line with and complements the EU's road transport policy. It supports access of EU's neighbouring countries to the EU passenger transport market and vice versa thereby creating a regulatory framework for organising cross-border tourism in both directions.

- **Consistency with other Union policies**

The proposal is consistent with the EU's neighbourhood policy and external relations.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

- **Collection and use of expertise and impact assessment**

The expected overall impacts are positive: opening of the Interbus Agreement to one more country would offer new opportunities to both the existing Contracting Parties and the Kingdom of Morocco. As it helps extending the EU acquis in the field of passenger transport to that country, it will have positive impacts on the technical, economic and social conditions under which the relevant operations are carried out. The overall environmental impact would be limited.

As hitherto, the operators can be SMEs with a smaller fleet of coaches or buses or larger companies with larger fleets.

- **Simplification**

Widening the geographical scope of the rules applicable to occasional coach and bus passenger transport operations under the Interbus Agreement will contribute to simplifying the conduct of such operations with another third country.

3. LEGAL ELEMENTS OF THE PROPOSAL

Legal Basis

The legal basis is the Treaty on the Functioning of the European Union (TFEU), and in particular the substantive legal basis, Article 91 TFEU, in conjunction with Article 218(5) TFEU.

- **Choice of the instrument**

Article 218(5) TFEU provides for a Council Decision as the applicable instrument.

4. BUDGETARY IMPLICATIONS

None.

5. OPTIONAL ELEMENTS

- **Monitoring, evaluation and reporting arrangements**

The functioning of the Interbus Agreement is evaluated every five years by the Joint Committee set up in Article 23 of the Agreement.

Further procedure

The Commission considers that it is necessary to initiate the procedure with the view to signing the Protocol. Consequently, the Commission is hereby submitting to the Council this Proposal for a Council Decision on the signing, on behalf of the Union, of the Protocol to the Agreement on the international occasional carriage of passengers by coach and bus (Interbus Agreement) by extending the possibility of accession to the Kingdom of Morocco.

- **Detailed explanation of the specific provisions of the proposal**

Specific provisions of the Proposed Council Decision:

- Article 1 of the Council Decision provides for the signing, on behalf of the Union, of the new Protocol to the Interbus Agreement regarding the Kingdom of Morocco. The new Protocol replaces the earlier Protocol which was open for signature between 16 July 2018 and 16 April 2019.
- Article 2 authorises the negotiator of the Protocol to indicate the person(s) empowered to sign the Protocol on behalf of the Union.
- Article 3 provides for the entry into force of the Council Decision.

Specific provisions of the Protocol:

- Article 1 provides for an amendment to the Interbus Agreement on the international occasional carriage of passengers by coach and bus by giving the Kingdom of Morocco the option to accede to the Agreement.
- Articles 2 to 6 cover the administrative procedures for the Protocol to enter into force, provide that all Contracting Parties have to sign and accede to or ratify the Protocol before it enters into force and, hence, the Kingdom of Morocco can join the Agreement, and include provisions on the language regime.
- Article 7 provides that this Protocol replaces the Protocol on the Kingdom of Morocco which was open for signature between 16 July 2018 and 16 April 2019.

Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union, of a Protocol amending the Agreement on the international occasional carriage of passengers by coach and bus (Interbus Agreement) by extending the possibility of accession to the Kingdom of Morocco

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) In accordance with Council Decision 2002/917/EC¹, the Agreement on the international occasional carriage of passengers by coach and bus (Interbus Agreement) was concluded, on behalf of the Union, on 3 October 2002 and entered into force on 1 January 2003².
- (2) On 5 December 2014, the Council authorised the Commission to open negotiations to amend the Interbus Agreement with a view to enlarging its geographical scope, so as to allow the Kingdom of Morocco's accession, currently not provided for therein.
- (3) A possible accession of the Kingdom of Morocco to the Interbus Agreement should contribute to developing international passenger transport relations, tourism and cultural exchange beyond those countries that are currently Parties to the Interbus Agreement. A possible accession of the Kingdom of Morocco to the Interbus Agreement should also help extending the Union acquis in the field of passenger transport to that country. That should have positive impacts on the technical, economic and social conditions under which the relevant operations are carried out. Therefore, the Kingdom of Morocco, which has an observer status in the European Conference of Ministers of Transport should be given the opportunity to accede to the Interbus Agreement.

¹ Council Decision 2002/917/EC of 3 October 2002 on the conclusion of the Interbus Agreement on the international occasional carriage of passengers by coach and bus (OJ L 321, 26.11.2002, p. 11)

² OJ L 321, 26.11.2002, p. 44.

- (4) Following Council Decision (EU) 2018/1211³ the European Union, Bosnia and Herzegovina, Montenegro and the Republic of Turkey signed the Protocol on the Kingdom of Morocco. However, the Protocol which was open for signature between 16 July 2018 and 16 April 2019 was not signed by all Contracting Parties before the signature period expired.
- (5) On 18 February 2020, the Council authorised the Commission to open negotiations for amending the Protocol on the Kingdom of Morocco to make certain technical changes regarding its signing and entry into force.
- (6) The negotiations were successfully concluded. In order to avoid governance issues, all Contracting Parties to the Interbus Agreement would have to sign and approve or ratify the Protocol on the Kingdom of Morocco before the Protocol enters into force and this country can join. There is no specific period during which the Protocol will be open for signature. The Protocol would enter into force on the first day of the month following ratification by all Contracting Parties.
- (7) Furthermore, the Protocol takes the change of the denomination of a Contracting Party, North Macedonia, into consideration. The Protocol now also refers to the Principality of Andorra that has become a Contracting Party to the Interbus Agreement.
- (8) For reasons of clarity and in order to facilitate the signature and entry into force of the Protocol, it has been considered appropriate to prepare a new Protocol on the Kingdom of Morocco replacing the Protocol on the Kingdom of Morocco which was open for signature between 16 July 2018 and 16 April 2019.
- (9) Therefore, the new Protocol on the Kingdom of Morocco should be signed on behalf of the Union, subject to its conclusion at a later date,

HAS ADOPTED THIS DECISION:

Article 1

The signing of the Protocol amending the Agreement on the international occasional carriage of passengers by coach and bus (Interbus Agreement) by extending the possibility of accession of the Kingdom of Morocco, that replaces the Protocol to the Interbus Agreement which was open for signature between 16 July 2018 and 16 April 2019, is hereby approved on behalf of the Union, subject to the conclusion of the said Protocol⁴.

³ Council Decision (EU) 2018/1211 of 16 July 2018 on the signing, on behalf of the European Union, of a Protocol amending the Agreement on the international occasional carriage of passengers by coach and bus (Interbus Agreement) by extending the possibility of accession to the Kingdom of Morocco (OJ L 222, 3.9.2018, p. 1).

⁴ The text of the Protocol will be published together with the Decision on its conclusion.

Article 2

The Council Secretariat General shall establish the instrument of full powers to sign the Protocol, subject to its conclusion, for the person(s) indicated by the negotiator of the Protocol.

Article 3

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

*For the Council
The President*