

Article 12

Decision 75/327/EEC ⁽¹⁾ is hereby repealed.

Article 13

1. Member States shall, after consultation with the Commission, bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 January 1993.

⁽¹⁾ OJ No L 152, 12. 6. 1975, p. 3.

The provisions adopted pursuant to the first subparagraph shall make express reference to this Directive.

2. Member States shall forthwith inform the Commission thereof and communicate to the Commission the provisions of national law which they adopt in the field covered by this Directive, which provisions shall be communicated by the Commission to the Member States.

Article 14

This Directive is addressed to the Member States.

Proposal for a Council Regulation (EEC) amending Regulation (EEC) No 1191/69 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway

COM(89) 564 final

(Submitted by the Commission on 1 December 1989)

(90/C 34/07)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 75 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas one of the objectives of the common transport policy is to eliminate disparities in the conditions inherent in the concept of public services liable to cause substantial distortion in the transport market;

Whereas the public interest of transport services may justify their continued operation under the concept of a public service;

Whereas the arrangements for such an operation should be established between the competent authorities and the undertakings within the framework of a contract in order to ensure the commercial operation of the latter;

Whereas, in the light of the possibilities offered by such contracts, the continued imposition of public service

obligations is no longer justifiable to meet the public transport needs, except for the provision of certain urban, suburban and regional services;

Whereas it is therefore necessary to amend Council Regulation (EEC) No 1191/69 ⁽¹⁾ to lay down the general rules governing the public service contracts,

HAS ADOPTED THIS REGULATION

Article 1

Council Regulation (EEC) No 1191/69 is hereby amended as follows:

1. paragraphs 2, 3 and 4 of Article 1 are replaced by the following:

'2. When necessary in order to ensure adequate transport on specific routes or in specific areas Member States may provide for the establishment or continuation of public services on the basis of contracts to be negotiated with undertakings in accordance with Article 14.

3. Nevertheless, Member States may maintain urban, suburban and regional services subject to the

⁽¹⁾ OJ No L 156, 28. 6. 1969, p. 1.

imposition of public service obligations referred to in paragraph 1. Such services shall be operated as a specific division meeting the following requirements:

- (a) to have separate accounts and a clear division of assets;
- (b) to be granted internal autonomy as regards current management and control over administrative and accounting matters;
- (c) to have a financial balance on the basis of receipts, subsidies and compensations, without support from or to any other operation of the undertaking.

4. Financial burdens devolving on transport undertakings by reason of the imposition of the obligation referred to in paragraph 3 shall be subject to compensation made in accordance with common procedures laid down in this Regulation.;

2. the following paragraph 5 is added to Article 1:

'5. For the purposes of this Regulation:

- "Urban and suburban services" means passenger transport services operated under a specific fare system to meet the transport needs of an urban centre or conurbation, as well as the passenger transport needs between it and surrounding areas;
- "Regional services" means transport services operated to meet the transport needs of a region, as well as the transport needs between a region and main transport centres.;

3. Article 10 (1) second subparagraph, (2) and Article 11 (3) are deleted;

4. Section V is replaced by the following:

SECTION V

Public service contracts

Article 14

1. "A public services contract" is a contract negotiated and concluded by the Member States and transport undertakings in order to provide the public with adequate services, whilst respecting the autonomy and the commercial interests of the transport undertakings.

2. Through a public service contract the Member State may in particular ensure:

- the provision of a transport service satisfying fixed standards of continuity, regularity, capacity and quality,
- the operation of any additional services,
- transport at specified rates and subject to specified conditions, in particular for certain categories of passenger or on certain routes.

A public service contract can involve either the operation of a service in a way that entails economic disadvantages for the undertaking or the creation or maintenance of a transport service that otherwise would not be operated.

3. A public service contract shall be agreed in advance and should cover, *inter alia*, the following points:

- (a) the contract period of validity, which should be multiannual;
- (b) the details of the service to be provided, notably the standards of continuity, regularity, capacity and quality;
- (c) the procedural rules to set or adjust the services fares;
- (d) the contract price, which may either be defined as an addition to the fare receipts — in the case where the undertaking is allowed to set fares within certain agreed limits — or be defined as including the fare receipts — in the case where the Member State retains the right to set fares;
- (e) the explicit and clear indication of the form and dates for paying the contract price;
- (f) the possibility of amendment to take account of unforeseeable changes;
- (g) provision for depreciation of the assets involved in the operation of the service.

4. Where an undertaking wishes to discontinue a service to which a public service contract may apply or to introduce substantial modifications to such a service, the competent authorities shall be informed in advance and have the right to request that the decision be postponed for a reasonable period for public consultations to take place. If the competent authorities wish the service to be maintained, it is to be the subject of negotiations with a view to the conclusion of a public service contract.

5. In the event of the failure of such negotiations or in the case of a disagreement concerning the

execution of a contract, the matter is to be referred to an arbitration panel designated by both parties. During the period of examination by the panel the service shall be maintained. In reaching its findings the panel shall notably take into account:

- the general public interest,
- the special characteristics of the service,
- that the proper costs of the service have to be met.

The conclusions of the panel, to be reached within three months, shall be binding on both parties.

6. The undertaking shall be entitled to compensation in accordance with the procedures laid down in section IV for the period prior to the conclusion of the contract.

7. By 31 May each year the Member States are to provide the Commission with information regarding the public service contracts in the previous year, in particular:

- a synopsis of the contents of new contracts and amendments,
- the findings of the panels referred to in paragraph 5,

— an overall evaluation of the contracts that have expired.

The Member States shall provide, at the Commission's request, any further information on the conditions, operations and results of public service contracts.';

5. Article 19 is replaced by the following:

Article 19

1. This Regulation shall apply to railway undertakings falling within the scope of the Council Directive on the development of the Community railways (⁽¹⁾).

2. As regards other transport undertakings this Regulation shall not apply to undertakings mainly providing transport services of a local or regional character.'

Article 2

This Regulation shall enter into force on 1 January 1992.

(⁽¹⁾) See the proposal for a Council Directive on page 8 of this Official Journal.

Proposal for a Council Decision concerning the establishing of a network of high speed trains

COM(89) 564 final

(Submitted by the Commission on 1 December 1989)

(90/C 34/08)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 75 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the functioning of the internal market means that the efficiency of the transport infrastructure between the regions of the Community must be reinforced and increased, in particular by means of a high speed train network to carry persons and, where appropriate, freight;

Whereas the Commission submitted to the Council in 1986 a report entitled 'Towards a European high speed rail network (⁽¹⁾)'; whereas the European Parliament has supported Community action in this sector (⁽²⁾); whereas the community of European railways presented at the beginning of 1989 a 'proposal for a European high speed network';

Whereas the current saturation of airspace and of numerous road axes is worrying and any increase in air and road capacity would require heavy investment;

Whereas the Community must give priority to the development of technologies that are environmentally friendly;

Whereas the rail infrastructure meets this requirement and would benefit from the development of high speed techniques;

(⁽¹⁾) COM(86) 341 final.

(⁽²⁾) Starita report PE 109.323.