

Case C-388/92

European Parliament v Council of the European Union

(Operation by non-resident carriers of national road passenger transport services within a Member State — Further consultation of the European Parliament)

Opinion of Advocate General Darmon delivered on 16 March 1994	I - 2069
Judgment of the Court, 1 June 1994	I - 2081

Summary of the Judgment

- 1. Acts of the institutions — Legislative procedure — Consultation of the Parliament — Further consultation in cases of substantial amendment to the initial proposal*
- 2. Transport — Road transport — Operation by non-resident carriers of national passenger transport services — Regulation No 2454/92 — Substantial departures from the initial Commission proposal — No further consultation of the Parliament — Infringement of essential procedural requirements — Illegality
(EEC Treaty, Art. 75; Council Regulation No 2454/92)*

1. The duty to consult the European Parliament in the course of the legislative procedure, in the cases provided for by the Treaty, includes a requirement that the Parliament be reconsulted on each occasion when the text finally adopted, viewed as a whole, departs substantially from the text on which the Parliament has already been consulted, except where the amendments essentially correspond to the wishes of the Parliament itself.
2. A comparison between the initial Commission proposal on which Regulation No 2454/92 was based and the content of that regulation as adopted by the Council shows that, as regards the operation by non-resident carriers of regular road passenger transport services, the principle of free access to all regular services has been replaced by a regime which limits opera-

tions to certain types of road passenger transport and to certain limited frontier areas.

Such amendments are substantial in character. Since they do not correspond to any wish expressly stated by the Parliament in a text that might be held to define its position, whatever opinions might have been expressed by parliamentary committees involved in the consultation procedure, and since they affect the scheme of the proposed regulation as a whole, they are in themselves sufficient to make fresh consultation of the Parliament necessary. The fact that the Parliament was not consulted a second time during the legislative procedure laid down in Article 75 of the Treaty constitutes an infringement of essential procedural requirements which must entail the annulment of Regulation No 2454/92.