

COUNCIL REGULATION (EEC) No 3572/90

of 4 December 1990

amending, as a result of German unification, certain Directives, Decisions and Regulations relating to transport by road, rail and inland waterway

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 ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the Community has adopted a set of rules on transport by road, rail and inland waterway;

Whereas, from the date of German unification onwards, Community law will be fully applicable to the territory of the former German Democratic Republic;

Whereas certain Community legislation on transport by road, rail and inland waterway must be amended to take account of the special situation in that territory;

Whereas a specific time limit needs to be set for bringing the rules in force in the territory of the former German Democratic Republic in conformity with Community acts;

Whereas the derogations provided for in this connection should be temporary and cause the least possible disturbance to the functioning of the common market;

Whereas the information on the situation of transport by road, rail and inland waterway and on the rules governing such transport in the territory of the former German Democratic Republic is insufficient to permit the type of adjustment or the extent of the derogations to be definitively established; whereas, to allow for changes in the situation, a simplified procedure must be laid down, in accordance with the third indent of Article 145 of the Treaty;

Whereas the provisions of Directives 74/561/EEC ⁽⁴⁾ and 74/562/EEC ⁽⁵⁾, as last amended in both cases by Directive 89/438/EEC ⁽⁶⁾, should be applied in such a way as to respect both the established rights of operators already working in the territory of the former German Democratic Republic and to allow recently established transport operators time in which to meet some of the provisions concerning financial standing and professional competence;

Whereas, from the date of German unification, road vehicles registered in the territory of the former German Democratic Republic have the same legal status as road vehicles registered in the other Member States; whereas Regulation (EEC) No 3821/85 ⁽⁷⁾ lays down certain provisions in respect of recording equipment installed in road vehicles; whereas such equipment is installed in new vehicles at the time of manufacture and thus presents no problem, while a reasonable transitional period must be provided to enable such equipment to be fitted to vehicles registered in the territory of the former German Democratic Republic before unification, account being taken of the additional cost and the technical capacity of approved workshops:

Whereas the name 'Deutsche Reichsbahn (DR)' should be inserted into all Community legislation which expressly mentions the names of railway undertakings; whereas a date should be set on which rules in question become applicable;

Whereas Community legislation on structural improvements in inland waterway transport must be amended to take account of the special situation of inland waterway transport operators established in the territory of the former German Democratic Republic,

HAS ADOPTED THIS REGULATION:

Article 1

The following paragraph is added to Article 5 of Directive 74/561/EEC:

'5. In respect of the territory of the former German Democratic Republic, the following dates replace those given in paragraphs 1 and 2:

⁽¹⁾ OJ No L 263, 26. 9. 1990, p. 34, as amended on 25 October 1990 and 28 November 1990.

⁽²⁾ Opinion delivered on 21 November 1990 (not yet published in the Official Journal).

⁽³⁾ Opinion delivered on 20 November 1990 (not yet published in the Official Journal).

⁽⁴⁾ OJ No L 308, 19. 11. 1974, p. 18.

⁽⁵⁾ OJ No L 308, 19. 11. 1974, p. 23.

⁽⁶⁾ OJ No L 212, 22. 7. 1989, p. 101.

⁽⁷⁾ OJ No L 370, 31. 12. 1985, p. 8.

- in paragraph 1, "3 October 1989" replaces "1 January 1978",
- in paragraph 2, "2 October 1989", "1 January 1992" and "1 July 1992" replace "31 December 1974", "1 January 1978" and "1 January 1980" respectively.

Article 2

The following paragraph is added to Article 4 of Directive 74/562/EEC:

'5. In respect of the territory of the former German Democratic Republic, the following dates replace those given in paragraphs 1 and 2:

- in paragraph 1, "3 October 1989" replaces "1 January 1978",
- in paragraph 2, "2 October 1989", "1 January 1992" and "1 July 1992" replace "31 December 1974", "1 January 1978" and "1 January 1980" respectively.'

Article 3

The following Article is inserted in Regulation (EEC) No 3821/85:

'Article 20a

This Regulation shall not apply until 1 January 1991 to vehicles registered in the territory of the former German Democratic Republic before that date.

This Regulation shall not apply until 1 January 1993 to such vehicles where they are engaged only in national transport operations in the territory of the Federal Republic of Germany. However, this Regulation shall apply as from its entry into force to vehicles engaged in the carriage of dangerous goods.'

Article 4

The following subparagraph is added at the end of Article 8 (1) of Council Directive 80/1263/EEC of 4 December 1980 on the introduction of a Community driving licence (1):

'The provisions of this paragraph apply also to the driving licences issued by the former German Democratic Republic.'

(1) OJ No L 375, 31. 12. 1980, p. 1.

Article 5

This list of railway undertakings which appears in:

- Article 19 (1) of 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 (2),
- Article 3 (1) of Council Regulation (EEC) No 1192/69 of 26 June 1969 on common rules for the normalization of the accounts of railway undertakings (3),
- Annex II point A. 1 'Rail — Main networks' to Council Regulation (EEC) No 1108/70 of 4 June 1970 introducing an accounting system for expenditure on infrastructure in respect of transport by rail, road and inland waterway (4),
- Article 2 of Council Regulation (EEC) No 2830/77 of 12 December 1977 on the measures necessary to achieve comparability between the accounting systems and annual accounts of railway undertakings (5),
- Article 2 of Council Regulation (EEC) No 2183/78 of 19 September 1978 laying down uniform costing principles for railway undertakings (6),
- Article 1 (1) of Council Decision 75/327/EEC of 20 May 1975 on the improvement of the situation of railway undertakings and the harmonization of rules governing financial relations between such undertakings and States (7),
- Article 1 (1) of Council Decision 82/529/EEC of 19 July 1982 on the fixing of rates for the international carriage of goods by rail (8),
- Article 1 (1) of Council Decision 83/418/EEC of 25 July 1983 on the commercial independence of the railways in the management of their international passenger and luggage traffic (9),

is hereby replaced by the following list:

- Société Nationale des Chemins de Fer Belges (SNCB)/Nationale Maatschappij der Belgische Spoorwegen (NMBS),

(2) OJ No L 156, 28. 6. 1969, p. 1.

(3) OJ No L 156, 28. 6. 1969, p. 8.

(4) OJ No L 130, 15. 6. 1970, p. 4.

(5) OJ No L 334, 24. 12. 1977, p. 13.

(6) OJ No L 258, 21. 9. 1978, p. 1.

(7) OJ No L 152, 12. 6. 1975, p. 3.

(8) OJ No L 234, 9. 8. 1982, p. 5.

(9) OJ No L 237, 26. 8. 1983, p. 32.

- Danske Statsbaner (DSB),
- Deutsche Bundesbahn (DB),
- Deutsche Reichsbahn (DR),
- Οργανισμός Σιδηροδρόμων Ελλάδος (ΟΣΕ),
- Red Nacional de los Ferrocarriles Españoles (RENFE),
- Société Nationale des Chemins de Fer Français (SNCF),
- Iarnród Éireann,
- Ente Ferrovie dello Stato (FS),
- Société Nationale des Chemins de Fer Luxembourgeois (CFL),
- Naamloze Vernootschap Nederlandse Spoorwegen (NS),
- Caminhos-de-Ferro Portugueses, EP (CP),
- British Rail (BR),
- Northern Ireland Railways (NIR).'

Article 6

Council Regulation (EEC) No 1101/89 of 27 April 1989 on structural improvements in inland waterway transport ⁽¹⁾ is hereby amended as follows:

1. the following paragraph is added to Article 6 (4):

'For German vessels registered in the territory of the former German Democratic Republic at the date of German unification the contribution shall be obligatory as from 1 January 1991.'

2. the following paragraph 8 is added to Article 6:

'8. If within six months of German unification the German Government proposes that a scrapping action be organized for vessels in its fleet that were, prior to unification, registered in the former German Democratic Republic, it shall communicate this request to the Commission. The Commission shall lay down the rules for the scrapping action in accordance with paragraph 7 and on the basis of the same principles as those set out in Commission Regulation (EEC) No 1102/89 (*).

(*) OJ No L 116, 28. 4. 1989, p. 30.'

3. the following paragraph is added to Article 8 (3) (a):

'The conditions set out in paragraphs 1 and 2 shall also not apply to vessels which were under construction in

the former German Democratic Republic before 1 September 1990, if the date of their delivery and commissioning is no later than 31 January 1991.'

4. the following paragraph is added to Article 8 (3) (b):

'The conditions set out in paragraphs 1 and 2 shall apply to vessels which became part of the German fleet upon German unification but which were not registered in the former German Democratic Republic on 1 September 1990.'

5. the following paragraph 5 is added to Article 10:

'5. The Member States shall adopt the measures necessary to ensure compliance with the provisions of the fourth subparagraph of Article 6 (4), and the second paragraphs of Article 8 (3) (a) and (b) before 1 January 1991 and notify the Commission thereof.'

Article 7

1. Regulations (EEC) No 2183/78 and (EEC) No 2830/77 shall apply in the territory of the former German Democratic Republic solely from 1 January 1992.

2. Regulation (EEC) No 1192/69 shall apply in the territory of the former German Democratic Republic solely from 1 January 1993.

Article 8

Decisions 75/327/EEC, 82/529/EEC and 83/418/EEC shall apply in the territory of the former German Democratic Republic solely as from 1 January 1993.

Article 9

1. Adjusting measures to fill obvious loopholes and to make technical adjustments to the measures provided for in this Directive may be adopted in accordance with the procedure laid down in Article 10.

2. Adjusting measures must be designed to ensure the coherent application of Community rules in the sector covered by this Directive in the territory of the former German Democratic Republic, with due regard for the specific circumstances in that territory and the special difficulties involved in the application of those rules.

They must be consistent with the principles of those rules, and be closely related to one of the derogations provided for by this Directive.

3. The measures referred to in paragraph 1 may be taken until 31 December 1992. Their applicability shall be limited to the same period.

(1) OJ No L 116, 28. 4. 1989, p. 25.

Article 10

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. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 11

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 4 December 1990.

For the Council

The President

G. DE MICHELIS
