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2016/0085 (NLE)

Proposal for a

**COUNCIL DECISION**

**on the position to be adopted, on behalf of the European Union, regarding draft Decision No 1/2016 of the Joint Committee established under the Interbus Agreement on the international occasional carriage of passengers by coach and bus**

(Text with EEA relevance)

## 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<sup>1</sup> entered into force on 1 January 2003. The Agreement was later updated by the Decision of the Joint Committee No 1/2011<sup>2</sup>. The Joint Committee also adopted the Recommendation No 1/2011<sup>3</sup> which concerns the use of a technical report for coaches and buses.

It is now time to update the Agreement again, and to incorporate acts not so far incorporated into the Agreement, in particular acts subsequent to those covered by Joint Committee Decision No 1/2011.

This proposed Council Decision is intended to establish the Union's position regarding draft Decision No 1/2016 of the Joint Committee set up under Article 23 of the Interbus Agreement.

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

The legislative update is consistent with EU transport policy since it extends, in practice, the application of the most recent EU passenger transport legislation, relevant to the sector, to Contracting Parties other than the European Union<sup>4</sup> thus improving road safety, roadworthiness and drivers' social conditions in respect of transport operations falling under the Agreement.

With a view to ensuring, in the context of such operations, the application of common rules, in particular in the above-mentioned areas, it is indeed essential that EU legislation not yet incorporated be covered by the Joint Committee Decision envisaged.

- **Consistency with other Union policies**

The proposed legislative update is consistent with the EU neighbourhood policy and external relations.

The draft Joint Committee Decision in the Annex is fully consistent with agreements, such as the Customs Union and Pre-Accession Agreements, Association Agreements and is intended to update the regulatory environment within which EU's neighbouring countries access to the EU passenger transport market (and vice versa).

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<sup>1</sup> OJ L 321, 26.11.2002, p. 11.

<sup>2</sup> OJ L 8, 12.1.2012, p. 38.

<sup>3</sup> OJ L 8, 12.2.2012, p. 46.

<sup>4</sup> The Contracting Parties of the Interbus Agreement are the EU, Albania, Bosnia and Herzegovina, Former Yugoslav Republic of Macedonia, Moldova, Montenegro, Turkey and Ukraine.

## **2. LEGAL ELEMENTS**

- **Legal basis**

In the absence of a Commission empowerment under Article 218(7) of the Treaty on the Functioning of the European Union (TFEU)<sup>5</sup>, the legal basis is Article 218(9) TFEU, in combination with the substantive legal basis, i.e. Article 91 TFEU.

- **Subsidiarity (for non-exclusive competence)**

The position of the Union as a party to the Agreement can only be adopted by the Union itself, which is therefore exclusively competent in the matter.

- **Proportionality**

The envisaged Joint Committee Decision is confined to incorporating existing EU legislation into the Agreement, which is necessary to adapt the rules applicable within the Agreement to EU rules, notably in respect of conditions applying to road passenger transport operators and technical conditions applying to vehicles and social provisions.

- **Choice of the instrument**

Article 218(9) TFEU provides for a Council Decision as the applicable instrument.

## **3. COLLECTION AND USE OF EXPERTISE AND IMPACT ASSESSMENT / SIMPLIFICATION**

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

The Commission has not carried out an impact assessment, nor used external expertise. The EU already applies the legislation that is now proposed to be incorporated into the Interbus Agreement, so as to apply to all operations carried out under that Agreement.

The incorporation of the existing Union acquis does not alter the existing traffic rights under the agreement. It will have a positive impact on the technical, economic and social conditions under which the relevant operations are carried out.

- **Simplification**

Adaptation of the rules applicable to operations under the Agreement to the EU acquis will simplify the conduct of such operations.

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

The Joint Committee Recommendation No 1/2011 should be repealed following the inclusion in the Agreement of Directive 2000/30/EC of the European Parliament and of the Council of 6 June 2000 on the technical roadside inspection of the roadworthiness of commercial vehicles circulating in the Community<sup>6</sup>. That Directive contains a specimen for technical roadside inspection report incorporating a checklist similar to the one recommended by the Joint Committee in their Recommendation No 1/2011. Furthermore, some Union acts referred to in that Recommendation are outdated.

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<sup>5</sup> Cf. Article 3 of the Council Decision 2002/917/EC, OJ L 321, 26.11.2002, p. 11.

<sup>6</sup> OJ L 203, 10.8.2000, p. 1.

#### **4. BUDGETARY IMPLICATIONS**

None.

#### **5. OTHER ELEMENTS**

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

The draft Council Decision establishes the basis for the position of the Union within the Joint Committee set up under Article 23 of the Interbus Agreement.

The draft Joint Committee Decision in the Annex takes account of Union acts adopted until June 2015.

In particular it intends to adapt

- the requirements concerning the social provisions referred to in Article 8 of the Agreement;
- the conditions applying to road passenger transport operators set out in Annex 1 to the Agreement;
- the technical standards applying to buses and coaches set out in Articles 1 and 2 of Annex 2 to the Agreement;
- the model of control document for occasional services exempted from authorisation set out in Annex 3 to the Agreement;
- the model of authorisation for non-liberalised occasional services set out in Annex 5 to the Agreement;
- the model declaration concerning Article 4 and Annex 1.

Moreover, it provides for the repeal of the Joint Committee Recommendation No 1/2011.

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(Text with EEA relevance)

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(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Interbus Agreement on the international occasional carriage of passengers by coach and bus (herein after referred to as 'the Agreement') entered into force on 1 January 2003.
- (2) The last update of Union legislation in the Interbus Agreement, which was introduced by Decision No 1/2011 of the Joint Committee<sup>7</sup>, takes into account Union acts adopted until the end of 2009. It is now timely to incorporate new measures that the Union has adopted since then.
- (3) In accordance with point (b) of Article 24(2) of the Interbus Agreement, the Joint Committee amends or adapts control documents and other models of documents established in the Annexes to the Agreement. In order to incorporate future measures taken within the Union, and in accordance with point (c) of Article 24(2) of the Interbus Agreement, the Joint Committee amends or adapts the Annexes concerning technical standards applying to buses and coaches as well as Annex 1 regarding the conditions applying to road passenger transport operators. In accordance with point (e) of Article 24(2) of the Interbus Agreement, the Joint Committee also amends or adapts the requirements concerning the social provisions. To this end the Joint Committee should act when the Agreement needs to be updated to technical and legislative progress.
- (4) Recommendation No 1/2011 of the Joint Committee<sup>8</sup> sets out a technical report used for roadside checks of coaches and buses. It has become outdated and should therefore be repealed,
- (5) The position of the Union as envisaged in this Decision should be adopted.

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<sup>7</sup> OJ L 8, 12.1.2012, p. 38.

<sup>8</sup> OJ L 8, 12.1.2012, p. 46.

HAS ADOPTED THIS DECISION:

*Article 1*

The position of the Union within the Joint Committee set up under Article 23 of the Interbus Agreement on the occasional carriage of passengers by coach and bus shall be to agree to the adoption of the attached draft Decision of the Joint Committee.

*Article 2*

After its adoption, the Decision of the Joint Committee shall be published in the *Official Journal of the European Union*.

*Article 3*

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

Done at Brussels,

*For the Council  
The President*