

Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006 (recast) (Text with EEA relevance)

CHAPTER III

REGULAR SERVICES SUBJECT TO AUTHORISATION

Article 6

Nature of authorisation

1 Authorisations shall be issued in the name of the carrier and shall be non-transferable. However, a carrier who has received an authorisation may, with the consent of the competent authority of the Member State in whose territory the point of departure is situated, hereinafter referred to as the ‘authorising authority’, operate the service through a subcontractor. In this case, the name of the subcontractor and its role shall be indicated in the authorisation. The subcontractor shall satisfy the conditions laid down in Article 3(1). For the purposes of this paragraph, the point of departure shall mean ‘one of the termini of the service’.

In the case of undertakings associated for the purpose of operating a regular service, the authorisation shall be issued in the names of all the undertakings and shall state the names of all the operators. It shall be given to the undertaking that manages the operation and copies shall be given to the other undertakings.

2 The period of validity of an authorisation shall not exceed 5 years. It may be set at less either at the request of the applicant or by mutual consent of the competent authorities of the Member States on whose territory passengers are picked up or set down.

3 Authorisations shall specify the following:

- a the type of service;
- b the route of the service, giving in particular the point of departure and the point of arrival;
- c the period of validity of the authorisation;
- d the stops and the timetable.

4 The Commission shall establish the format of the authorisations. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 26(2).

5 Authorisations shall entitle their holder(s) to operate regular services in the territories of all Member States over which the routes of the service pass.

6 The operator of a regular service may use additional vehicles to deal with temporary and exceptional situations. Such additional vehicles may be used only under the same conditions as set out in the authorisation referred to in paragraph 3.

In this case, the carrier shall ensure that the following documents are carried on the vehicle:

- a a copy of the authorisation of the regular service;

- b a copy of the contract between the operator of the regular service and the undertaking providing the additional vehicles or an equivalent document;
- c a certified true copy of the Community licence issued to the operator providing the additional vehicles for the service.

Article 7

Submission of application for authorisation

1 Applications for authorisation of regular services shall be submitted to the authorising authority.

2 The Commission shall establish the format of the applications. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 26(2).

3 Persons applying for authorisation shall provide any further information which they consider relevant or which is requested by the authorising authority, in particular a driving schedule making it possible to monitor compliance with Community legislation on driving and rest periods and a copy of the Community licence.

Article 8

Authorising procedure

1 Authorisations shall be issued in agreement with the authorities of all the Member States in whose territories passengers are picked up or set down. The authorising authority shall forward to such authorities, as well as to the competent authorities of Member States whose territories are crossed without passengers being picked up or set down, a copy of the application, together with copies of any other relevant documentation, and its assessment.

2 The competent authorities of the Member States whose agreement has been requested shall notify the authorising authority of their decision on the application within 2 months. This time limit shall be calculated from the date of receipt of the request for agreement which is shown in the acknowledgement of receipt. If the decision received from the competent authorities of the Member States whose agreement has been requested is negative, it shall contain a proper statement of reasons. If the authorising authority does not receive a reply within 2 months, the authorities consulted shall be deemed to have given their agreement and the authorising authority may grant the authorisation.

The authorities of the Member States whose territories are crossed without passengers being picked up or set down may notify the authorising authority of their comments within the time limit laid down in the first subparagraph.

3 The authorising authority shall take a decision on the application within 4 months of the date of submission of the application by the carrier.

4 Authorisation shall be granted unless:

- a the applicant is unable to provide the service which is the subject of the application with equipment directly available to him;
- b the applicant has not complied with national or international legislation on road transport, and in particular the conditions and requirements relating to authorisations for international road passenger services, or has committed serious infringements of

- Community road transport legislation in particular with regard to the rules applicable to vehicles and driving and rest periods for drivers;
- c in the case of an application for renewal of authorisation, the conditions of authorisation have not been complied with;
 - d a Member State decides on the basis of a detailed analysis that the service concerned would seriously affect the viability of a comparable service covered by one or more public service contracts conforming to Community law on the direct sections concerned. In such a case, the Member State shall set up criteria, on a non-discriminatory basis, for determining whether the service applied for would seriously affect the viability of the abovementioned comparable service and shall communicate them to the Commission, upon its request;
 - e a Member State decides on the basis of a detailed analysis that the principal purpose of the service is not to carry passengers between stops located in different Member States.

In the event that an existing international coach and bus service is seriously affecting the viability of a comparable service covered by one or more public service contracts conforming to Community law on the direct sections concerned, due to exceptional reasons which could not have been foreseen at the time of granting the authorisation, a Member State may, with the agreement of the Commission, suspend or withdraw the authorisation to run the international coach and bus service after having given 6 months' notice to the carrier.

The fact that a carrier offers lower prices than those offered by other road carriers or the fact that the link in question is already operated by other road carriers shall not in itself constitute justification for rejecting the application.

5 The authorising authority and the competent authorities of all the Member States involved in the procedure to reach the agreement provided for in paragraph 1 may refuse applications only on the basis of reasons provided for in this Regulation.

6 Having completed the procedure laid down in paragraphs 1 to 5, the authorising authority shall grant the authorisation or formally refuse the application.

Decisions refusing an application shall state the reasons on which they are based. Member States shall ensure that transport undertakings are given the opportunity to make representations in the event of their application being refused.

The authorising authority shall inform all the authorities referred to in paragraph 1 of its decision, sending them a copy of any authorisation.

7 If the procedure for reaching the agreement referred to in paragraph 1 does not enable the authorising authority to decide on an application, the matter may be referred to the Commission within the time limit of 2 months calculated from the date of communication of a negative decision by one or more of the Member States consulted pursuant to paragraph 1.

8 After having consulted the Member States concerned, the Commission shall, within 4 months from receipt of the communication from the authorising authority, take a decision which shall take effect 30 days after the notification to the Member States concerned.

9 The Commission decision shall continue to apply until an agreement is reached between the Member States concerned.

Article 9

Renewal and alteration of authorisation

Article 8 shall apply, *mutatis mutandis*, to applications for the renewal of authorisations or for alteration of the conditions under which the services subject to authorisation must be carried out.

In the event of a minor alteration to the operating conditions, in particular adjustment of intervals, fares and timetables, the authorising authority need only supply the other Member States concerned with information relating to the alteration.

The Member States concerned may agree that the authorising authority alone shall decide on alterations to the conditions under which a service is operated.

Article 10

Lapse of an authorisation

1 Without prejudice to the provisions of Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road⁽¹⁾, an authorisation for a regular service shall lapse at the end of its period of validity or 3 months after the authorising authority has received notice from its holder of his intention to withdraw the service. Such notice shall contain a proper statement of reasons.

2 Where demand for a service has ceased to exist, the period of notice provided for in paragraph 1 shall be of 1 month.

3 The authorising authority shall inform the competent authorities of the other Member States concerned that the authorisation has lapsed.

4 The holder of the authorisation shall notify users of the service concerned of its withdrawal 1 month in advance by means of appropriate publicity.

Article 11

Obligations of carriers

1 Save in the event of *force majeure*, the operator of a regular service shall, until the authorisation expires, take all measures to guarantee a transport service that fulfils the standards of continuity, regularity and capacity and complies with the other conditions laid down by the competent authority in accordance with Article 6(3).

2 The carrier shall display the route of the service, the bus stops, the timetable, the fares and the conditions of carriage in such a way as to ensure that such information is readily available to all users.

3 Without prejudice to Regulation (EC) No 1370/2007, it shall be possible for the Member States concerned, by common agreement and in agreement with the holder of the authorisation, to make changes to the operating conditions governing a regular service.

(1) OJ L 315, 3.12.2007, p. 1.