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REGULATION (EEC) No 1107/70 OF THE COUNCIL
of 4 June 1970
on the granting of aids for transport by rail, road and inland waterway

(OJ L 130, 15.6.1970, p. 1)

Amended by:

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		No	page	date
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REGULATION (EEC) No 1107/70 OF THE COUNCIL

of 4 June 1970

on the granting of aids for transport by rail, road and inland waterway

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 75, 77 and 94 thereof;

Having regard to the Council Decision of 13 May 1965 ([1]) on the harmonization of certain provisions affecting competition in transport by rail, road and inland waterway, and in particular Article 9 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament ([2])

Having regard to the Opinion of the Economic and Social Committee ([3]);

Whereas the elimination of disparities liable to distort the conditions of competition in the transport market is an essential objective of the common transport policy;

Whereas, to that end, it is appropriate to lay down certain rules on the granting of aids for transport by rail, road and inland waterway in so far as such aids relate specifically to activities within that sector;

Whereas Article 77 states that aids shall be compatible with the Treaty if they meet the needs of co-ordination of transport or if they represent reimbursement for the discharge of certain obligations inherent in the concept of a public service;

Whereas Council Regulations (EEC) No 1192/69 and (EEC) 1191/69 ([4]) of 26 June 1969 laid down common rules and procedures for, respectively, compensation payments arising from the normalisation of the accounts of railway undertakings, and compensation in respect of financial burdens resulting from public service obligations in transport by rail, road and inland waterway;

Whereas it is therefore necessary to specify the cases and the circumstances in which Member States may take co-ordination measures or impose obligations inherent in the concept of a public service which involve the granting of aids under Article 77 of the Treaty not covered by the aforesaid Regulation;

Whereas, pursuant to Article 8 of the Council Decision of 13 May 1965, payments by States and public authorities to railway undertakings are to be made subject to Community rules; whereas payments made by reason of the fact that the harmonisation referred to in the said Article 8 has not yet been carried out should be exempted from the provisions of this Regulation delimiting the powers of Member States to take co-ordination measures or impose obligations inherent in the concept of a public service which involve the granting of aids under Article 77 of the Treaty;

Whereas, owing to the particular nature of these payments, it seems appropriate, pursuant of Article 94 of the Treaty, to lay down a special procedure for informing the Commission of such payments;

Whereas it is desirable that certain provisions of this Regulation should not apply to measures taken by any Member State in implementation of a system of aid upon which the Commission has, pursuant to Articles 77, 92 and 93 of the Treaty, already pronounced;

([1]) OJ No 88, 24.5.1965, p. 1500/65.
([2]) OJ No 103, 2.6.1967, p. 2050/67.
([3]) OJ No 178, 2.8.1967, p. 18.
([4]) OJ No L 156, 28.6.1969, p. 1.

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Whereas it is desirable, in order to assist the Commission in its examination of aids granted for transport, to attach to the Commission an advisory committee consisting of experts appointed by Member States;

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation shall apply to aids granted for transport by rail, road and inland waterway, in so far as such aids relate specifically to activities within that sector.

Article 2

Articles 92 to 94 of the Treaty shall apply to aids granted for transport by rail, road and inland waterway.

Article 3

Without prejudice to the provisions of Council Regulation (EEC) No 1192/69 of 26 June 1969 on common rules for the normalisation of the accounts of railway undertakings, and 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, Member States shall neither take co-ordination measures nor impose obligations inherent in the concept of a public service which involve the granting of aids pursuant to Article 77 of the Treaty except in the following cases or circumstances:

1. As regards co-ordination of transport:

   (a) where aids granted to railway undertakings not covered by Regulation (EEC) No 1192/69 are intended as compensation for additional financial burdens which those undertakings bear by comparison with other transport undertakings and which fall under one of the heads of normalisation listed in that Regulation;

   (b) until the entry into force of common rules on the allocation of infrastructure costs, where aid is granted to undertakings which have to bear expenditure relating to the infrastructure used by them, while other undertakings are not subject to a like burden. In determining the amount of aid thus granted account shall be taken of the infrastructure costs which competing modes of transport do not have to bear;

   (c) where the purpose of the aid is to promote either:

      — research into transport systems and technologies more economic for the community in general; or

      — the development of transport systems and technologies more economic for the community in general.

   Such aid shall be restricted to the research and development stage and may not cover the commercial exploitation of such transport systems and technologies;

   (d) until the entry into force of Community rules on access to the transport market, where aid is granted as an exceptional and temporary measure in order to eliminate, as part of a reorganisation plan, excess capacity causing serious structural problems, and thus to contribute towards meeting more effectively the needs of the transport market.

2. As regards reimbursement for the discharge of obligations inherent in the concept of a public service:

   until the entry into force of relevant Community rules, where payments are made to rail, road or inland waterway transport undertakings as compensation for public service obligations imposed on them by the State or public authorities and covering either:

   — tariff obligations not falling within the definition given in Article 2 (5) of Regulation (EEC) No 1191/69; or

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— transport undertakings or activities to which that Regulation does not apply.

3. Without prejudice to the provisions of Article 75 (3) of the Treaty, the Council, acting by a qualified majority on a proposal from the Commission, may amend the list given in paragraphs (1) and (2) of this Article.

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Article 4

1. Until the expiry of the period laid down for attaining financial balance in accordance with Article 15 (1) of Council Decision No 75/327/EEC ([1]), 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, and without prejudice to Regulations (EEC) No 1191/69 and (EEC) No 1192/69 Article 3 shall apply neither to financial assistance given to railway undertakings within the framework of their business plans in accordance with Article 5 (1) of that Decision nor to the deficit subsidies granted to them in accordance with Article 13 of that Decision.

2. In the absence of Community Regulations on the harmonization of the rules governing the financial relations between States and railway undertakings other than those referred to in Article 1 of Decision No 75/327/EEC and without prejudice to Regulations (EEC) No 1191/69 and (EEC) No 1192/69, Article 3 shall not apply to payments by States and public authorities to these undertakings made by reason of any failure to achieve harmonization.

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Article 5

1. When informing the Commission, in accordance with Article 93 (3) of the Treaty, of any plans to grant or alter aid, Member States shall forward to the Commission all information necessary to establish that such aid complies with the provisions of this Regulation.

2. The aids referred to in Article 4 shall be exempt from the procedure provided for in Article 93 (3) of the Treaty. Details of such aids shall be communicated to the Commission in the form of estimates at the beginning of each year and subsequently, in the form of a report, after the end of the financial year.

Article 6

An advisory committee to the Commission is hereby set up; it shall assist the Commission in its examination of aids granted for transport by rail, road and inland waterway. The committee shall have as Chairman a representative of the Commission and shall consist of representatives appointed by each Member State. Not less than ten days' notice of meetings of the committee shall be given and such notice shall include details of the agenda. This period may be reduced for urgent cases. The functioning of the committee shall be subject to Article 83 of the Treaty.

The committee may examine, and give an opinion on, all questions concerning the operation of this Regulation and of all other provisions governing the granting of aids in the transport sector.

The committee shall be kept informed of the nature and amount of aids granted to transport undertakings and, generally, of all relevant details concerning such aids, as soon as the latter are notified to the Commission in accordance with the provisions of this Regulation.

([1]) OJ No C 62, 15. 3. 1975, p. 27.

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Article 7

The provisions of Article 3 shall not apply to measures adopted by any Member State in implementation of a system of aid upon which the Commission has, pursuant to Articles 77, 92 and 93 of the Treaty, already pronounced.

Article 8

This Regulation shall enter into force on 1 January 1971.

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