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REGULATION (EEC) No 516/72 OF THE COUNCIL

of 28 February 1972

on the introduction of common rules for shuttle services by coach and bus between Member States

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 Council Regulation No 117/66/EEC[1] of 28 July 1966 on the introduction of common rules for the international carriage of passengers by coach and bus, and in particular Article 8 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas it is necessary that shuttle services be made subject to a system of authorization, in order that an effective check may be kept on compliance with the obligations devolving on carriers pursuant to this Regulation; whereas the period of validity of authorizations should be fixed taking into account the seasonal nature of the type of service in question;

Whereas, in order to make it easier to carry out checks and to simplify administrative formalities, provision should be made for a standard form of authorization, valid for the entire route covered by the service;

Whereas it is desirable that the introduction of any shuttle service be subject to an examination whereby the authorities may establish that the requirement is satisfied that the normal functioning of regular services should not be affected; whereas such an examination is, however, unnecessary in respect of shuttle services which include, over and above the provision of transport, the overnight accommodation of passengers, whether with or without meals, such inclusive service not being comparable with the service offered by regular road or rail services;

Whereas, in the interest of transport users and in particular in order to ensure that services are properly operated, the competent authority should have the power to exclude applicants who are clearly not capable of running a shuttle service;

Whereas the conditions governing the granting of exemptions from certain provisions defining the scope of shuttle services must be laid down having regard to the requirements of the customers, but not so as to affect the essential character of this type of transport; whereas the degree of exemption which may be granted should be varied according to the effect of each type of shuttle service upon the state of the passenger transport market in the areas concerned;

Whereas, in order to facilitate the application of the relevant provisions of this Regulation, common rules should be laid down in respect of the procedure for drawing up and issuing authorizations; whereas for this purpose a standard form of application should be prescribed;

Whereas in view of the seasonal character of shuttle services and of the need to satisfy the often unforeseeable requirements of customers it is imperative that the competent authorities should decide promptly on applications for the introduction of such services; whereas a procedure based on direct agreements between the Member States concerned appears to be the most appropriate for meeting this requirement;

Whereas Community procedures should be provided for whereby difficulties arising during negotiations between Member States may be resolved; whereas to this end the Commission and, where necessary, the Council, should be given power of decision in the matter;

[1] OJ No 147, 8.8.1966, p. 2688/66.

Whereas transitional measures must be provided for to cover the period of validity of authorizations issued before the entry into force of this Regulation;

Whereas, in order to make the common rules laid down by this Regulation more flexible, the Member States should be given the power to waive, on a bilateral or multilateral basis, the requirements of certain provisions of this Regulation;

Whereas carriers must be given the opportunity to make representations concerning their interests, by appropriate means, in relation to certain decisions by Member States on applications;

Whereas, in order to ensure that the common rules are implemented in a uniform manner, provision should be made for a procedure for Community consultation in respect of the measures to be taken for this purpose by the Member States;

HAS ADOPTED THIS REGULATION:

SECTION I

Scope and general provisions

Article 1

This Regulation shall apply to shuttle services coming within Article 2 of Regulation No 117/66/EEC and satisfying the conditions laid down in Article 4 (1) of that Regulation.

Article 2

Shuttle services shall be operated under a shuttle service authorization (hereinafter called 'authorization').

Authorizations shall be drawn up and issued in accordance with the provisions of this Regulation.

Article 3

1. Each authorization shall be in the name of a carrier who satisfies the requirements applicable in the Member State where his vehicles are registered, to persons wishing to engage in international passenger transport.

2. The period of validity of an authorization may not exceed one year.

3. Each authorization shall specify the following:

(a) the type of shuttle service;

(b) the route of the service, giving in particular place of departure, place of destination, stopping points, and frontier-crossing points;

(c) the length in kilometres of the route of the service;

(d) the registration marks of the vehicles with which the service may be operated;

(e) the number and dates of the journeys;

(f) schedules;

(g) any exemptions granted pursuant to Article 9, 10 or 11;

(h) the period of validity of the authorization.

4. Authorizations shall be in a form to be prescribed by the Commission by regulation, after consulting the Member States, within three months following the adoption of this Regulation.

Article 4

An authorization shall entitle the holder to carry out, in accordance with the conditions set out therein, international passenger road transport operations in the territories of all Member States over which the route of the shuttle service in question passes.

SECTION II

Conditions for issue of an authorization

Article 5

An authorization for the introduction of a service within the meaning of Article 1 shall be issued to any applicant, where:

(a) the service in respect of which the application is made includes, in addition to transport, accommodation for each group, with or without meals, at the place of destination and, where necessary, during the journey;

(b) the total time spent by each group on the journey and at the place of destination is not less than seven days or, in the case of a service covering a distance of less than 300 km, not less than three days;

(c) the inclusive charge for the journey is paid to the organizer thereof by the persons carried.

Article 6

1. By way of derogation from Article 5, applications to introduce a service within the

meaning of Article 1 which does not satisfy the conditions laid down in Article 5 shall be subject to an examination of the state of the passenger transport market in the areas concerned.

2. An authorization shall be granted only if the traffic to which the application relates is not already catered for in a satisfactory manner, both as to quality and as to quantity, by existing services in the areas concerned.

Article 7

The authorizations referred to in Articles 5 and 6 may be refused if, in the past, the applicant has failed to observe the conditions of authorization of a service operated by him, or if there are grounds for believing that he will not operate the service in a proper manner, or that proper treatment of the passengers will not be ensured.

Article 8

1. The applicant shall, in support of his application, provide the competent authorities with full particulars of the route and programme of the service.

2. In the case of services coming within Article 5, the applicant shall also supply particulars of the places and hotels or other establishments in which the passengers are to be accommodated and particulars of the duration of their stay.

3. The applicant shall submit, in support of the particulars referred to in paragraphs 1 and 2, all relevant documents from the tour organizer and from any hotels or other establishments in which accommodation is to be provided.

SECTION III

Exemptions

Article 9

1. By way of derogation from Article 2 (1) of Regulation No 117/66/EEC, the holder of an authorization in respect of services coming within Article 5 shall be permitted to accept on any return journey passengers who made the outward journey with another group, on condition that the total number of such passengers in no case exceeds 25% of the number of passengers carried on the relevant outward journey.

2. The percentage referred to in paragraph 1 may, with the authorization of the competent authority, be increased to a percentage not exceeding 50%.

Before authorizing any increase, such authority may take into consideration the state of the passenger transport market in the areas concerned.

3. Increases as provided for in paragraph 2 shall be authorized in accordance with the procedure laid down in Articles 13 to 16.

Applications in respect of such increases may be submitted either at the time when application for authorization is made in accordance with Article 12 or while the authorized shuttle service is in operation.

Article 10

1. By way of derogation from Article 2 (2) of Regulation No 117/66/EEC, the holder of an authorization may be authorized to take up passengers during the outward journey, and to set down passengers on the return journey, at not more than three places, other than the place of departure, situated in the territory of the State from which the service departs.

2. By way of derogation from Article 2 (2) of Regulation No 117/66/EEC, the holder of an authorization may be authorized to set down passengers during the outward journey, and to take up passengers during the return journey, at not more than three places, other than the place of destination, situated in the territory of the State in which the destination of the service is located.

3. In the case of the services referred to in Article 6, paragraphs 1 and 2 shall apply only if existing passenger transport services in the area concerned are unable to cater satisfactorily, both as to quality and as to quantity, for traffic on the routes to which the exemptions requested relate.

4. Granting of the exemptions provided for in paragraphs 1 and 2 shall be in accordance with the procedure laid down in Articles 13 to 16.

Applications requesting such exemptions may be submitted either at the time when application for authorization is made in accordance with Article 12, or while the authorized shuttle service is in operation.

Article 11

1. By way of derogation from Article 2 (3) of Regulation No 117/66/EEC, a carrier may, in the case of passengers coming from third countries and formed into groups at an airport on arrival by air, or

at a port on arrival by sea, under a contract concluded before their arrival in the country where they are to be taken up, apply for authorization to make the first outward journey and the last return journey of a series unladen.

In such cases the granting of authorization shall be in accordance with the procedure laid down in Articles 12 to 16.

2. By way of derogation from Article 2 (3) of Regulation No 117/66/EEC, authorizations may be granted in other cases also, in accordance with the procedure laid down in Articles 12, 13, 14 and 16.

3. The Commission shall, before the end of June 1975, present to the Council a report on the state of the transport market in this particular field, together with, if necessary, a proposal to amend the scope of this Article in the light of experience and of the development of the common transport policy.

SECTION IV

Procedure

Article 12

1. Applications for authorization shall be in a form to be prescribed by the Commission by regulation, after consulting the Member States, within three months following the adoption of this Regulation.

2. Applications as referred to in paragraph 1 shall be submitted to the Member State in whose territory is situated the place where passengers are to be taken up in order to be conveyed to the place where they are to stay. In support of their applications, applicants shall attach documents relating to the particulars specified in Article 8.

Article 13

1. Applications shall be examined by the Member States in whose territories are situated the places where passengers are to be taken up or set down, such examination to be conducted in accordance with the procedure laid down in Articles 14 to 16, save that in cases covered by Article 11 (2) Article 15 shall not apply.

2. In the case of services covered by Article 5, the Member State referred to in Article 12 (2) shall, before its decision take effect, inform any Member State whose territory is to be crossed in transit of such decision.

3. In the case of services covered by Article 6, the Member State referred to in Article 12 (2) shall inform Member States whose territory is to be crossed in transit and the Commission of the progress of negotiations taking place in pursuance of paragraph 1, and of the decisions resulting therefrom. Such Member States may submit their comments.

4. In the case of the services referred to in paragraph 3, decisions of the Member States referred to in paragraph 1 shall take effect one month after their notification to Member States whose territory is to be crossed in transit. Where the latter consider that a decision is liable to give rise to serious difficulties, they may, acting in accordance with the procedure laid down in Article 15, object to the decision before it takes effect. In that case, implementation of the decision in question shall be deferred until that procedure is concluded.

Where Member States whose territory is to be crossed in transit expressly waive their right of objection, the States of departure and destination of the service may fix a date prior to the expiry of the one-month period for the decision in question to take effect.

Article 14

1. The Member State referred to in Article 12 (2) shall forward to the other Member States referred to in Article 13 a copy of each application, together with copies of the documents referred to in Article 8. It shall communicate its opinion concerning the application.

2. Within thirty days following receipt of the copy of the application, the Member States referred to in Article 13 shall notify their opinions to the Member State referred to in Article 12 (2).

3. If, on the expiry of the time limit laid down in paragraph 2, the Member State referred to in Article 12 (2) has received no reply from the other Member States referred to in Article 13, the latter shall be deemed to have given their assent.

Article 15

1. Where no agreement is reached under the procedure set out in Article 14, or where action is taken under Article 13 (4), the dispute may, at the request of any Member State concerned, be referred to the Commission.

The Commission, after consulting the Member States concerned, shall as soon as possible adopt a decision, which shall be notified to those States.

2. The decision referred to in paragraph 1 shall take effect after thirty days, unless before the expiry of that period the matter is referred to the Council by any Member State concerned.

In that event, the Council shall, within thirty days, take a decision by a qualified majority.

3. Any decision of Commission or Council under paragraph 1 or 2 shall continue to apply until such time as agreement is reached between the Member States concerned, or until the adoption by Commission or Council of a new decision under paragraph 1 or 2.

Article 16

1. The competent authority of the Member State referred to in Article 12 (2) shall, according to the terms of the Decision reached between the Member States referred to in Article 13, either:

— grant an authorization for the introduction of a shuttle service; or

— formally refuse the application.

2. Upon issuing an authorization, the Member State referred to in Article 12 (2) shall forward a copy thereof to each of the other Member States referred to in Article 13.

3. Decisions taken by the competent authorities of Member States pursuant to paragraph 1 must state the reasons on which they are based.

Member States shall ensure that transport undertakings in their capacity as such are given the opportunity to make representations concerning their interests, by appropriate means, in respect of such decisions.

SECTION V

Control procedures and penalties

Article 17

The following shall be carried on the vehicle and be produced at the request of any authorized inspecting officer:

— the authorization provided for in Article 3; and

— for each journey, a list of the names of the passengers.

Article 18

1. Passengers using a shuttle service must have in their possession throughout the journey an individual or collective travel document, indicating:

— the name or names of the passenger or passengers;

— the route served;

— the dates of the outward and return journeys and the duration of the stay at the place of destination;

— the inclusive charge for the journey or, in the case of services covered by Article 6, the transport charge;

2. The travel document referred to in paragraph 1 shall be produced at the request of any authorized inspecting officer.

Article 19

1. An authorization issued pursuant to this Regulation shall be withdrawn by the Member State referred to in Article 12 (2) if the holder ceases to satisfy the conditions laid down in Article 3 (1).

Any Member State which has withdrawn an authorization shall forthwith notify the other Member States referred to in Article 13 of its action.

2. If it comes to the notice of any Member State that a breach of this Regulation has been committed in its territory by the holder of an authorization issued by another Member State, it shall inform the latter thereof. Member States shall send each other all the information in their possession concerning the penalties imposed for such breaches.

SECTION VI

Transitional and final provisions

Article 20

Shuttle services within the meaning of Article 1 already in existence at the time of the entry into force of this Regulation may continue to be operated under national authorizations until such authorizations expire.

Such authorizations shall not, however, be renewed, save to the extent necessary to ensure that, where a shuttle service is operated under more than one national authorization, these all expire at the same time.

Article 21

Member States may, on a bilateral or multilateral basis, agree that, notwithstanding Articles 13, 14 and 16, a Member State in whose territory is situated the place at which passengers are to be taken up in order to be carried to the place where they are to stay may issue authorizations without further reference to the other Member States parties to the agreement.

Article 22

The documents provided for in Articles 3, 12 and 17 shall take the place of existing application forms, authorizations and control documents.

Article 23

This Regulation shall apply from 1 January 1973, except for Articles 3 (4) and 12 (1), which shall apply from the entry into force of this Regulation.

Article 24

Member States shall, before 1 October 1972 and after consulting the Commission, adopt such laws, regulations or administrative provisions as may be necessary for the implementation of this Regulation.

Such measures shall cover, *inter alia,* the organization of, procedure for, and means of carrying out, checks on compliance and the penalties applicable in case of breach.

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

Done at Brussels, 28 February 1972.

For the Council

The President

G. THORN