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**TRANS 216  
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## **REPORT**

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From : The Presidency

To : COREPER/Council

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No. prev. doc. : 9119/09 TRANS 170 CODEC 632

No. Cion prop. : 16933/08 TRANS 460 CODEC 1759

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Subject : ***Preparation of the Council meeting (Transport, Telecommunications and Energy) on 11 and 12 June 2009***

Proposal for a Regulation of the European Parliament and of the Council on the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (LA)

- *Progress report / Policy debate*

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### ***Introduction***

1. On 4 December 2008, the Commission transmitted to the Council and the European Parliament the above mentioned proposal. The proposed Regulation aims at strengthening passenger rights in the field of transport by bus and coach. It forms a part of the general policy of the European Community to ensure equal treatment of passengers, irrespective of the mode of transport they have chosen to travel with. Similar legislation has already been adopted in the field of air and rail transport, and is proposed for sea and inland waterways services. According to the Commission, the adoption of such legislation for all transport modes would contribute to the formation of a level playing field for the different sectors of the transport industry.

Concerning passengers' rights in general, the proposed Regulation contains provisions on liability in the event of death or injury of passengers and loss of or damage to their luggage, automatic solutions when travel is interrupted, treatment of complaints and means of redress, passenger information and other initiatives. Furthermore, it lays down rules on information and assistance to disabled persons and persons with reduced mobility (PRMs).

2. The work on the Commission proposal in the relevant Council Working Group started with its presentation on 21 January 2009. Based on the examination in the Working Party on Land Transport, the Presidency has come to the following conclusions:

***Work carried out in the Working Party***

3. All Member States have stated their support for the general objective of the Commission proposal to strengthen passenger rights in general and above all to ensure non-discrimination of disabled persons and persons with reduced mobility.
4. Nevertheless, a common view in the Working Party is that the Commission proposal needs to be adjusted to the specific features of this transport mode, which in most countries is the most important means of transport available to the public, in particular to passengers "vulnerable" in terms of low income. Several Member States also pointed out that especially at the times of economic downturn special attention must be paid to the economic impact of the proposed regulation on bus transport companies.
5. Examination at the Working Party level also revealed that a clear definition of and an agreement on the scope is a pre-condition for the further examination and evolution of the dossier. The Commission proposes a wide scope: the regulation should apply to "the carriage of passengers by bus and/or coach undertakings by means of regular services". Member States may however exempt urban, suburban and regional transport covered by public service contracts, if a level of protection comparable to the one proposed is ensured.

Nevertheless, all Member States consider that the proposed scope of application needs to be clarified and adjusted. This progress report therefore focuses on the various aspects of the scope of application of the proposed Regulation.

6. A majority of Member States consider that the scope of this Regulation is too wide and that it should be limited to national and international long-distance regular transport services, in order to prevent the potential difficulties resulting from excessive requirements placed on short-distance services, especially when carried out by urban and suburban/regional transport.
7. Other Member States favour an open scope with possible exemptions, following the solution adopted in Regulation (EC) No 1371/2007 on rail passenger rights and obligations. One or more types of bus/coach services could be exempted from the application of certain provisions inadequate to their character, if a Member State so decides while ensuring that basic rights in selected areas would be guaranteed to all passengers. This standpoint would leave margin for possible national modifications and exemptions while taking into account the principle of subsidiarity in the field of local transport.
8. One Member State expressly supported a wide scope with graduated provisions, instead of establishing possibilities of general exemptions. This option would focus on the examination of each provision, identifying possible problems for individual types of bus/coach services and adjusting these provisions to suit the services proportionally. Passenger rights would be covered by the Regulation, without the possibility of further exemptions on the side of Member States.
9. Concerning the scope, the Commission insists that the Regulation should apply to "the carriage of passengers by bus and/or coach undertakings by means of regular services", in order to guarantee the same basic rights to all passengers. Alternatively, the Commission could support a wide scope with graduated provisions as mentioned in the above paragraph 8.

10. During the examination some other issues have been unveiled, which seem to cause major concerns to many Member States. The major problematic areas concern in particular the liability for death and injury of passengers (Article 6), the advanced payments in cases of death or personal injuries (Article 8), the possible reasons for refusal of disabled persons or persons with reduced mobility from transport services (Article 11), the right to assistance especially on board during the journey (Articles 13 - 15), the training of all personnel (Article 18 + Annex I), the responsibility of transport undertakings in the event of cancellations and long delays at departure (Article 20) and the date of entry into force of the Regulation (Article 33). Some of these issues could possibly be solved regardless of the final formulation of the scope of application, while others are more closely tied up with the question of scope.

### ***European Parliament's view***

11. The European Parliament adopted its opinion at first reading on 23 April 2009. Regarding the scope, the EP position is that the new rules should apply to all regular passenger transport services, including regional services, by coach or bus companies. Member States could be authorised to exclude urban transport and suburban transport services covered by public service contracts from the scope of the regulation, on condition that, under such contracts, passengers' rights are protected at a level comparable to that afforded by the regulation.

## *Conclusions*

12. In order to enable the Council preparatory bodies to advance its work on the proposal, ministers are invited to reply to the following questions concerning issues that should be decided at a political level:

(1) **Scope of application**

**Regarding the scope of application of the proposal, which of the following possibilities would ministers prefer:**

- a) **limited scope with no further exemptions** (limiting the scope of the whole Regulation to national long-distance and international regular bus/coach transport services);
- b) **open scope with possible exemptions** (Member States could exempt one or more types of bus/coach transport services from the application of some provisions inadequate to their character, while some basic rights in selected areas would be ensured for all passengers);
- c) **wide scope with graduated provisions** (Instead of establishing general exemptions, this option would focus on the examination of each provision, identifying possible problems for individual types of bus/coach services and adjusting these provisions to suit the services proportionally. Passenger rights would be covered by the Regulation, without the possibility of further exemptions on the side of Member States.)