

COMMUNICATION

**from the European Affairs Committee of the Federal Council
to the European Commission, the Council and the European Parliament
pursuant to Article 23f para. 4 of the Austrian Constitution
25 April 2018**

COM (2017) 647 final

**Proposal for a Regulation of the European Parliament and of the Council
amending Regulation (EC) No 1073/2009 on common rules for access to the
international market for coach and bus services**

This proposal is part of the second mobility package which, according to the Commission, aims to lead the fight against climate change, make European industry stronger and more competitive, and improve the quality of life and choice of citizens for their daily mobility.

Regulation (EC) No 1073/2009 on common rules for access to the international market for coach services and amending Regulation (EC) No 561/2006 was adopted as part of a legislative package with Regulation (EC) No 1071/2009 on common rules for access to the occupation of road transport operator. Together, these two regulations regulate the conditions for access to the profession and the market in the field of transport of passengers by road.

Regulation (EC) No 1073/2009 lays down the provisions that undertakings intending to operate on the international road passenger transport market and on national markets other than the market of their Member State of establishment (cabotage operations) must comply with. It includes provisions on the documents to be issued to those undertakings by the Member State of registration (Community license) and by the authorising authority (authorisation for a regular service). Moreover, it sets out sanctions for infringements of those obligations as well as provisions on cooperation between the Member States.

The authorisation process for regular services carrying passengers over distances of 100 kilometres or more as the crow flies is to be liberalised, with the authorising authority (authority of the Member State in which the place of departure (one of the places of departure) of the services is located) alone deciding and merely informing the other Member States involved. The Federal Council fails to see a convincing reason for liberalising the authorisation for regular services carrying passengers over distances of 100 kilometres or more, as the existence of different procedures is bound to increase the administrative burden.

The proposed regulation provides for complete liberalisation of cabotage operations for regular service. Currently, cabotage operations are only permitted as part of a regular international service and have to be authorised by the national authority concerned in accordance with the national requirements for the national market. According to the proposal, applications for cabotage operations can be submitted independent of a regular international service and must be authorised pursuant to the procedural requirements and the grounds for exclusion provided for by the Regulation.

The Federal Council strictly rejects the complete liberalisation of cabotage operations for regular service with special procedural requirements, as provided for in the proposal. The current legal provisions only permit cabotage operations as part of a regular international service subject to authorisation by the national authority concerned in accordance with the national requirements for the national market. In contrast, the proposal tabled by the Commission provides for cabotage operations to be applied for independent of a regular international service and to be authorised pursuant to the procedural requirements and the grounds for exclusion specified in the Regulation.

The Federal Council firmly opposes the undermining of the existing legislation on regular coach and bus services, including the Act on Administrative Court Proceedings, by a measure which, inter alia, excludes the suspensive effect provided for in the current legislation. The Federal Council refuses to accept that the national market be opened completely and governed largely by EU law, as the latter would only apply to transport operators not resident in Austria and thus constitute an unacceptable discrimination of operators resident in Austria and, moreover, run counter to the principles of subsidiarity and proportionality.