



October 2007  
AK Position Paper

Proposal for a regulation on common rules  
for access to the market for coach and bus  
services

COM (2007) 264 final/2

## About Us

**The Federal Chamber of Labour is by law representing the interests of about 3 million employees and consumers in Austria. It acts for the interests of its members in fields of social-, educational-, economical-, and consumer issues both on the national and on the EU-level in Brussels. Furthermore the Austrian Federal Chamber of Labour is part of the Austrian social partnership.**

**The AK EUROPA office in Brussels was established in 1991 to bring forward the interests of all its members directly vis-à-vis the European Institutions.**

### **Organisation and Tasks of the Austrian Federal Chamber of Labour**

The Austrian Federal Chamber of Labour is the umbrella organisation of the nine regional Chambers of Labour in Austria, which have together the statutory mandate to represent the interests of their members.

The Chambers of Labour provide their members a broad range of services, including for instance advice on matters of labour law, consumer rights, social insurance and educational matters.

More than three quarters of the 2 million member-consultations carried out each year concern labour-, social insurance- and insolvency law. Furthermore the Austrian Federal Chamber of Labour makes use of its vested right to state its opinion in the legislation process of the European Union and in Austria in order to shape the interests of the employees and consumers towards the legislator.

All Austrian employees are subject to compulsory membership. The member fee is determined by law and is amounting to 0.5% of the members' gross wages or salaries (up to the social security payroll tax cap maximum). 560.000 - amongst others unemployed, persons on maternity (paternity) leave, community- and military service - of the 3 million members are exempt from subscription payment, but are entitled to all services provided by the Austrian Federal Chambers of Labor.

Herbert Tumpel  
president

Werner Muhm  
director

## Executive Summary

The Federal Chamber of Labour (AK) does not object to the above-mentioned regulation proposals in principle and would like state its position on individual provisions:

From the AK's point of view, it should be noted that Austria has always endeavoured to specify certain social, technical and environmental standards in this above-mentioned agreement.s with third countries

We would like to emphasise in principle that the AK is against transferring competence to the EU for bilateral agreements between Austria and non-EU Member States on passenger transport or goods transport by road.

Regarding this, that is why the AK is calling for action by Austria analogous to its opinion regarding the further liberalisation of European aviation in the proposal for a regulation of the European Parliament and of the Council on common rules for the operation of air transfer services in the Community.

As regards this subject matter, the AK also declared itself firmly against transferring competence exclusively to the Commission for the conclusion of air transport agreements with third countries. In addition, the AK proposes checking whether the previous protective clause for market disturbances should be maintained in order to be able to take suitable measures against market disturbances.

## As to the provisions in detail

The AK finds fault in principle with the fact that the proposal for a regulation is limited to harmonising and simplifying the existing legislation.

The European Commission established that there is a lack of clarity as regards the scope of application for passenger transport by Community carriers to and from third countries and transiting Member States should be resolved by the current proposal for a regulation.

With the current proposal, the European Commission intends to merge two regulations on access to the road haulage market and also make the following changes:

A modified procedure to authorise international regular services: the European Commission feels that certain grounds for refusal provided for in the current authorisation regime are outdated and should be removed. Authorisation should henceforth be granted unless there are clearly specified grounds for refusal attributable to the applicant. Only one ground for refusal relating to the relevant market remains, namely that the service applied for would seriously affect the viability of a comparable service operated under a public service obligation on the direct sections concerned.

- Simplified and standardized Community licence: more detailed specifications are provided for the format of the Community licence and of the certified true copies in order to reduce administrative burden and delays especially at road side checks.

- Enhanced legal provisions obliging a Member State to act, when requested to do so by another Member State, when a carrier to whom it delivered a Community licence commits an infringement in another country. Such action should take the form of at least a warning. Enhanced procedures to communicate between Member States are put in place using the contact points established pursuant to the new Regulation on the admission to the occupation of road transport operator.

The AK finds fault in principle with the fact that the proposal for a regulation is limited to harmonising and simplifying the existing legislation. Unfortunately, the possibilities of the “higher quality standards” option with the associated increase in the level of professional qualification and improvement in financial standing of the sector was not chosen.

## The provisions in detail:

### Article 1 Scope

This article stresses that the regulation shall apply to all international carriage on the territory of the Community, i.e. also from and to third countries.

Carriage from Member States to certain third countries is covered by bilateral agreements between individual Member States and the third countries in question. There are e.g. agreements between Austria and Croatia and Ukraine.

The Regulation also applies to national road passenger services operated by a non-resident haulier on a temporary basis ("cabotage").

As regards international carriage to and from a third country, Article 1 specifies that, as long as there is no agreement between the Community and the third country in question, the Regulation does not apply to that part of the journey carried out within the Member State of picking up and setting down of passengers. It does, however, apply within a Member State crossed in transit.

### Article 4 Community licence

Paragraph 2 of the rules on the Community licence emphasises again that the Community licence and certified true copies must bear an engraved stamp or seal of the issuing authority as well as a signature and a serial number. In addition, it states that the serial number of the driver attestation shall be recorded in the national electronic register of road transport undertakings as part of the

data set of the carrier.

In the AK's opinion, a definition of this driver attestation or reference to the legal foundation on which the driver attestation is established should be included in this regulation.

### Article 8 Authorising procedure

This article provides for a streamlined procedure and one that has been modified in terms of the refusal options compared to the one laid down in Regulation 684/92. Authorisation will henceforth be granted unless one of three grounds attributable to the applicant applies.

Only one ground for refusal relating to the relevant market remains, namely that the service applied for would seriously affect the viability of a comparable service operated under a public service obligation on the direct sections concerned. Transit countries should not be heard anymore, but will be informed once the service has been authorised.

In the AK's opinion, it is imperative that a further ground for refusal is included that prescribes taking into account existing transport by rail on the same route. The Kyoto Protocol provides for a reduction in the noxious emissions of road traffic and oppose climate change, and preference should be given here without qualification to bus transport, which is more harmful to the environment, in this draft.

In addition, it should be noted that the reference to the proposal for a regulation on public passenger transport services by rail and road appears sensible in principle, although it could be questionable to refer to a law that is not yet in force. The AK therefore proposes that we include the current ground for refusal “affects the viability of a comparable rail service” as well as the reference to public service transport based on the proposal for a regulation in the new text.

#### Article 16 Rules applicable to cabotage transport operations

In paragraph 1, the Commission stresses that the performance of cabotage operations shall be subject to the laws, regulations and administrative provisions in force in the host Member State. The following list cites, besides the transport conditions, the dimensions and weights of road vehicles, requirements relating to the carriage of certain categories of goods and value added tax (VAT) on transport services, also the “working time, driving time and rest periods” in lit d). In the AK’s opinion, this list is far too limiting. The AK therefore calls for the more comprehensive terms “social, road safety and remuneration provisions” to be added, as was the intention also in the explanatory impact analysis of the present proposal for a regulation. Otherwise every transport operator not established in Austria yet performing cabotage operations in Austria would have competitive advantages over Austrian undertakings.

Article 22 and 23 Sanctioning of infringements and  
 Article 24 Entry in national register  
 The sanctioning of infringements, particularly those committed in a Member State, should be made stiffer (binding). A central database should be set up for the sanctioning of infringements that combines the infringements in the Member States as well as their sanctions.

In accordance with Article 23 paragraph 2, the host Member State may impose sanctions on non-resident carriers who have committed infringements of this Regulation or of Community or national transport regulations within its territory on the occasion of a cabotage transport operation.

In the AK’s opinion, this wording is in no way sufficient: since – as detailed above – very different rules for performing cabotage journeys are cited in Article 16, it is not enough to provide sanctions only in the event of infringements of “road transport legislation”. Sanctions also need to be able to be imposed here in particular for infringements of social law provisions.

Fur further qestions please contact

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