COMMISSION RECOMMENDATION

of 28 June 1974

to the Government of the Netherlands concerning 'various draft Articles implementing Regulations (EEC) No 517/72 and No 516/72', part of a more general amendment to the Decree implementing the Law of 1939 on the carriage of passengers by motor vehicle (Uitvoeringsbesluit Autovervoer Personen 1939)

(74/376/EEC)

1. The Office of the Permanent Representative of the Netherlands wrote on 5 June 1973 to inform the Commission of a draft Decree amending the 'Decree implementing the Law of 1939 on the carriage of passengers by motor vehicle' (Uitvoeringsbesluit Autovervoer Personen 1939).

This draft Decree was subsequently withdrawn by the Government of the Netherlands and replaced by a new draft, which was transmitted to the Commission by the Office of the Permanent Representative of the Netherlands on 16 October 1973.

This communication constitutes a consultation of the Commission within the meaning of Article 22 of Council Regulation (EEC) No 517/72 [1] of 28 February 1972 on the introduction of common rules for regular and special regular services by coach and bus between Member States and Article 24 of Council Regulation (EEC) No 516/72 [2] of 28 February 1972 on the introduction of common rules for shuttle services by coach and bus between Member States.

The Commission notes that the aim of the draft Decree is to bring the Decree implementing the Law of 1939 on the carriage of passengers by motor vehicle (Uitvoeringsbesluit Autovervoer Personen 1939) into line with the provisions of Council Regulations (EEC) No 517/72 and (EEC) No 516/72 and of Commission Regulation (EEC) No 1172/72.

For this purpose certain measures have been proposed to implement the above Community Regulations.

2. Before setting out the details of its recommendation, the Commission wishes to express its regret at the fact that the Government of the Netherlands has not observed the time limits for the introduction of implementing measures laid down in the Community Regulations referred to above. Under the terms of the relevant provisions in the above Regulations, these measures should have been adopted before 1 October 1972.

3. As regards the content of the Netherlands draft Decree, the Commission makes the following Recommendation :

It notes that :

— Article 13 (b) 1 repeats the provisions of Article 2 of Regulation (EEC) No 517/72,

— Article 13 (b) 7 those of Article 10 (1), subparagraph 2, of Regulation (EEC) No 517/72,

— Article 13 (c) those of Articles 2 and 10 (1), subparagraph 2, of Regulation (EEC) No 517/72,

— Article 13 (d) those of Article 2 of Regulation (EEC) No 516/72,

— Article 13 (h) 1 those of Article 17 (1) of Regulation (EEC) No 517/72,

— Article 13 (h) 2 those of Article 17 of Regulation (EEC) No 516/72.

Under Article 189 of the Treaty the provisions of these Regulations are directly applicable in Member States ; they have been in force since 1 January 1973. It is not therefore necessary to duplicate them in national legislation. Moreover, such duplication could raise doubts as to the entry into force or the direct applicability of Community Regulations as such and might result in these Regulations being given different interpretations in different Member States. Any repetition, even partial, of the provisions of a Community Regulation in national legislation could be permitted, if at all, only if it were necessary in order to render those provisions intelligible to those they concerned.

Consequently, the Commission recommends that the Government of the Netherlands omit from Article 13 of the draft Decree those measures which :

— make regular services subject to an authorization,

— lay down the obligations of the carrier towards the public and the passengers concerned where he intends to withdraw a regular service,

— make special regular services subject to an authorization and lay down the obligations of the carrier towards the public and the passengers concerned where he intends to withdraw a special regular service,

— make shuttle services subject to an authorization,

— specify the documents to be carried on board vehicles providing a regular service,

[1] OJ No L 67, 20. 3. 1972, p. 19.
[2] OJ No L 67, 20. 3. 1972, p. 13.

— specify the documents to be carried on board vehicles carrying out a shuttle service,

since all these obligations and measures are already provided for in the Community Regulations concerned.

4. The Commission observes that following the removal of the abovementioned provisions the draft Decree includes no provisions on the specific penalties applicable in case of breaches of Regulations (EEC) No 517/72 and (EEC) No 516/72.

Consequently, the Commission recommends that the Government of the Netherlands rectify this omission in its implementation of the provisions of Articles 22 and 24 respectively of the above Regulations.

5. Article 13 (b) 5 covers the case of transfer of the authorization of a regular service but makes no mention of the transfer of the regular service itself. The Commission considers that the fact that a regular service may not be transferred because there is no provision for this in the legislation of the Netherlands should be explicitly specified in the implementing provisions.

Consequently, the Commission recommends that the Government of the Netherlands specify in the implementing measures that a regular service may not be transferred.

6. The Commission notes that the other provisions proposed in the draft Royal Decree fulfil the obligations of Member States under the Community Regulations concerned.

Done at Brussels, 28 June 1974.

For the Commission

The President

François-Xavier ORTOLI