EUROPEAN
COMMISSION

Brussels, 12.4.2019
COM(2019) 179 final

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

Exemptions granted by Member States under Regulation (EU) No 181/2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004

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1. INTRODUCTION

1.1. Background

Regulation (EU) No 181/2011[1] ('the Regulation') lays down a series of rights for passengers who travel by bus and coach in the European Union. It became applicable on 1 March 2013.

The Commission is submitting this report under Articles 2(6) and 18(2) of the Regulation, which requires it to report to the European Parliament and the Council on exemptions granted pursuant to Articles 2(4), 2(5) and 18(1).

1.2 Scope of the Regulation

The Regulation applies, in general, to 'regular services' (services provided at specified intervals along specified routes, where passengers are picked up and set down at predetermined stopping points) for non-specified categories of passengers, where the boarding or alighting point of the passengers is situated in the territory of a Member State.[2]

1.3 Content of the Regulation

Passengers travelling on any type of regular service, irrespective of the scheduled distance of the service, benefit from the following core rights:

1) non-discriminatory transport conditions (notably non-discriminatory tariffs);

2) access to transport for people with disabilities or reduced mobility at no additional cost (carriers can only refuse to transport passengers with disabilities if carrying them is physically impossible given the design of the vehicle, the bus stop or the terminal infrastructure, or if doing so would breach health and safety requirements);

3) minimum rules on the travel information provided to all passengers before and during their journey including information on their rights;

[1] Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 (OJ L 55, 28.2.2011, p. 1).

[2] In addition, a limited number of provisions (the most important being on the compensation and assistance that carriers are required to provide in case of death, injury, loss or damage caused by road accidents) also apply to 'occasional services', where the group of passengers is constituted on the initiative of the customer or the carrier.

4) a complaint handling mechanism that carriers must make available to all passengers; and

5) independent national enforcement bodies in each Member State, which have the mandate to enforce the Regulation and, where appropriate, to impose penalties[3].

Passengers also benefit from the following additional rights when travelling on regular services where the scheduled distance of the service is 250 km or more:

6) provision of tickets (electronic or paper) or any other documents giving entitlement to transport;

7) compensation and assistance in the case of death, injury or loss or damage to luggage caused by an accident;

8) information if the service is cancelled or delayed on departure;

9) right to reimbursement of the full ticket price or rerouting in the case of a cancellation or a long delay at departure;

10) adequate assistance in the case of a cancellation or a long delay (only applicable when the scheduled duration of the journey is more than 3 hours);

11) compensation amounting to 50 % of the ticket price if the carrier fails to offer the passenger the choice between reimbursement of the ticket price and rerouting when there has been a cancellation or long delay; and

12) specific assistance at no additional cost for people with disabilities or reduced mobility both at bus terminals and on board.

2. Exemptions from the scope of the Regulation[4]

2.1 Exemption of domestic regular services from the scope of the Regulation in accordance with Article 2(4) of the Regulation

Member States could, on a transparent and non-discriminatory basis, exempt those purely domestic regular services where the scheduled distance is equal or above 250 km from the application of the non-core rights until 28 February 2017. This exemption could be renewed once, for a period of up to four years (ending on 28 February 2021 at the latest).

In 2013, when the Regulation become applicable, a total of 13 Member States (Croatia, the Czech Republic[5], Estonia, France, Greece, Hungary[6], Latvia, The Netherlands,

[3] In addition, as the Regulation is listed in the Annex of Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws, the national authorities participating in the EU Consumer Protection Cooperation can cooperate with each other to investigate violations of EU bus and coach passenger rights and use cooperative enforcement measures to deter operators from the violation of those rights.

[4] The Commission publishes an updated list on the exemptions granted by Member States on the basis of information provided by Member States at:
https://ec.europa.eu/transport/sites/transport/files/themes/passengers/road/doc/exemptions-from-bus-coach-passengers-rights-and-obligations.pdf

Portugal, Romania, Slovakia, Slovenia and the United Kingdom) applied exemptions of this type.

In 2017, a total of 8 Member States (Croatia, Estonia, Hungary, Latvia, Portugal, Slovakia, Slovenia and the United Kingdom) decided to renew this exemption[7].

2.2 Exemption of regular services with a significant part of the service (including at least one scheduled stop) is operated outside the European Union in accordance with Article 2(5) of the Regulation

Member States could also grant exemptions from the application of the entire Regulation to regular services where a significant part of the service (including at least one scheduled stop) is operated outside the EU. These exemptions, which must also be awarded on a transparent and non-discriminatory basis, expired on 28 February 2017, but they could be renewed once for a period of up to four years (ending on 28 February 2021 at the latest).

In 2013, a total of 14 Member States (Austria, Croatia, Estonia, France, Finland, Germany, Greece, Hungary, Italy, Latvia, The Netherlands, Slovakia, Slovenia and the United Kingdom) granted exemptions of this type.

In 2017, a total of 9 Member States (Croatia, Estonia, Greece, Finland, Hungary, Latvia, Slovakia, Slovenia and the United Kingdom) decided to renew this exemption[8].

2.3 Exemption of regular services from some or all of the provisions related to the rights of passengers with disability or reduced mobility in accordance with Article 18(1) of the Regulation

Member States can exempt their domestic services from the application of all or some of the provisions of Chapter III of the Regulation on the rights of passengers with disability or reduced mobility, provided that they ensure that the level of protection of disabled persons and persons with reduced mobility under their national rules is at least the same as under the Regulation. Member States shall inform the Commission of such exemptions granted. The Commission shall take appropriate action if such an exemption is deemed not to be in accordance with the requirement that the level of protection of disabled persons and persons with reduced mobility under the national rules shall be at least the same as under the Regulation.

None of the Member States granted exemptions on the basis of Article 18(1) of the Regulation.

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[5] The Czech Republic only granted exemptions from Articles 8, 19 and 21 of the Regulation.
[6] The exemption granted by Hungary do not cover Articles 7 and 16(1) of the Regulation.
[7] On 20 December 2018 when the manuscript of the report was finalised the same Member States applied the exemption.
[8] On 20 December 2018 when the manuscript of the report was finalised the same Member States applied the exemption.

3. Consultation with stakeholders and national enforcement bodies about the exemptions

Before submitting its Report to the European Parliament and the Council on the application of Regulation (EU) No 181/2011[9] the Commission consulted in 2016 stakeholders on the application of the Regulation. During this consultation, passengers' organisations[10] criticised Member States for granting too many exemptions. In their opinion, the extensive use of exemptions deprives passengers of the full enjoyment of their rights and of legal certainty (particularly as it is difficult for passengers to know which Member States apply which exemptions).

Consequently, in the same Report the Commission encouraged Member States, which granted exemptions from the Regulation, to review before 28 March 2017 whether, in the light of their experiences, it is necessary to continue these exemptions.

In September 2017, the Commission made a survey with the national enforcement bodies requesting them to explain why their Member State decided to apply or not to apply these exemptions.[11]

The Member States explained their decisions to grant exemptions as follows: the Czech Republic, Hungary and The Netherlands exempted purely domestic regular services to give more time for national operators to prepare for the application of the Regulation and make the necessary investments (e.g. accessibility of fleet and infrastructure). Estonia and Latvia exempted such services because fully applying the Regulation to domestic services would be a significant burden for the operators, which would terminate operating certain services. Croatia granted this exemption at the request of national carriers. The UK granted this exemption in line with the general government policy to make use of all exemptions from EU legislation, which would reduce costs to businesses.

Germany, Estonia, Latvia, and The Netherlands explained that they exempted regular services with a significant part of the service operated outside the European Union to renegotiate their bilateral road passenger transport agreements with third countries and introduce similar passenger rights articles in such agreements.

4. Conclusion

Several Member States granted extensive exemptions during the first four years from the application of the Regulation in order to allow bus and coach carrier to prepare for its application. In 2017, when they had to reconsider whether they should continue the use of these exemptions, some of these Member States considered that bus and coach carriers are prepared to fully apply the Regulation and there is no further need to apply these exemptions. Nevertheless, there are still 10 Member States using two or one of these exemptions.

[9] COM(2016) 619 final
[10] The European Disability Forum (EDF) and the European Passengers' Federation (EPF)
[11] http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupMeeting&meetingId=2166