Romanian Parliament
Senate

Bucharest, February 12, 2017

OPINION

Regarding the *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*

COM (2017) 647 final

The Romanian Senate examined the **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 – COM (2017) 647 final** – according to the provisions of the Treaty of Lisbon (Protocol no. 2).

Taking into account the report from January 31, 2018 of our permanent Committee on European Affairs, **the Plenum of the Senate**, during its session of February 12, 2018, decided as follows:

1. This Regulation does not violates principles of subsidiarity and proportionality.

2. **Within the amending *amending Regulation (EC) No 1073/2009 on common rules for access to the international market for coach and bus services*, the following are recommended to pursue**:

1. We note that the approach of the Regulation is differentiated in terms of the way in which the objectives of the 2011 White Paper Roadmap to a Single European Transport Area on the strengthening of the internal market for road transport and low-emission mobility are taken into account. If road transport of passengers by coach and bus shall propose a relaxation of the rules on cabotage (so that non-resident carriers may operate national regular services under the same conditions as resident carriers), in the case of road freight transport, the Regulation does not considering a similar approach, open to liberalization (limiting to 5 days the period for conducting cabotage operations is, in Romania's view, the disadvantage of geographically peripheral Member States), or the reduction of empty journeys in road freight transport could contribute to the objectives on environmental protection;

2. We draw attention to the fact that:

a) the proposal provisions on the organization and regular national services may represent a substantial interference in national transport systems, which could favor non-resident carriers from economically more developed Member States which have more financial and administrative resources for access to transport markets, other than those in the Eastern European Member States (geographically peripheral states). It should be borne in mind that Member States have adopted their own national rules which take into account the specificities of passengers national transport, socio-economic needs, passenger flows and the way in which other modes of transport are developed;

b) the proposal for a regulation on access to terminals and the procedure for access to terminals, including the introduction of the regulatory body in this process, may lead to overregulation, delay in decision-making and settlement of appeals. In principle, access refusal to a terminal may not be limited to lack of capacity and there may be other good reasons for such a refusal (serious and repeated infringements of the road transport operator, reported either to the specific legislation in the field or to the contractual relations it has with the economic operator that manages the terminal, e. g.). At the same time, one of the proposal for a Regulation provision – in the case of a denial of access, operators managing terminals are obliged to indicate a viable alternative road to the transport operator – is disproportionate and unrealistic from a practical point of view;

c) the designation by the Member States of a independent regulatory body of any other public authority whose task it is to carry out the economic analyzes necessary to determine whether the proposed new services would compromise the economic equilibrium of a public service contract, as well as to resolve disputes concerning terminals access, could be a disproportionate measure, for the following reasons:
- the economic analyzes required to determine whether new proposed services would compromise the economic equilibrium of a public service contract should be carried out by the competent authorities to establish road or public transport strategies at national, regional or local level know the socio-economic needs of users and who are responsible for the road transport development;
- the new body intervention on the market could disrupt the establishment, coordination and the coherent development of road transport services;
- could lead to a substantial change in national legislation and strategic approach in the sector, with major and unjustified administrative costs;

d) the proposed approach to differentiate the authorization procedure for regular international passenger transport services for less than 100 km in a straight line or the procedure for authorizing regular services for international road passenger transport at 100 km or more in a straight line is not sufficient and clearly justified by the Regulation, through technical and legal arguments (including the choice of the 100 km limit);

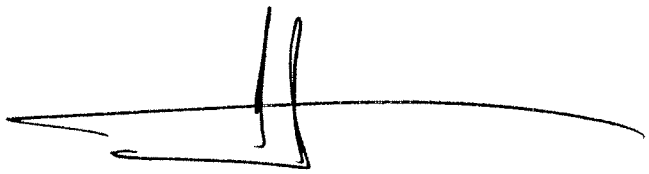
e) the reducing administrative burdens should not undermine the more important objectives of road safety and fair competition on the market. Thus, in the case of occasional services, the removal of the control document could generate substantial problems from the perspective of effective controls; could make it possible to make races, without declaring it, by circumventing specific legislation in the field of road transport and taxation;

f) establishing the procedure and criteria for the application of Article 8d (Member States may limit the right of access to the international and national market for regular services if the proposed regular service carries passengers over distances of less than 100 kilometres as the crow flies and if the

service would compromise the economic equilibrium of a public service contract) are important elements that should not be the subject of delegation to the Regulation as proposed in Article 8d (5);

3. We request that the Regulation clarifies the regulatory intentions, with the scope of application, the proposal showing a clear misunderstanding between the title and its legal basis, on the one hand, and the regulatory object, on the other. Specifically, in view of the legal basis of the project (Article 91 TFEU), in conjunction with the fact that the title of the Regulation does not change and the fact that Article 1 only amends paragraph (4) to the effect that "This Regulation shall apply to national road passenger transport services for hire or reward by a non-resident carrier in accordance with the provisions of Chapter V" (reference was made to the temporary nature of the provision of services by non-resident carriers), it may be interpreted that the introduction of Article 8b ("Authorization procedure for national regular services") applies only to non-resident carriers who wish to carry out national road transport services persons in the territory of a Member State.

p. Speaker of the Senate



Adrian ŢUŢUIANU