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SECOND REPORT

drawn up on behalf of the Committee on Transport

on the harmonization of social provisions in the transport sector

Rapporteur: Mr B. KEY

1.2.2

English Edition

PE 66.736/fin.

On 29 February 1980 the motion for a resolution by Mr ALBERS and others (Doc. 1-536/79) on the harmonization of social provisions in the transport sector was referred by the Bureau of the European Parliament to the Committee on Transport as committee responsible, and to the Committee on Social Affairs and Employment for an opinion.

On 28 March 1980 the Committee on Transport appointed Mr KEY rapporteur.

At its meeting of 25 September 1980 the committee decided to annex to the report on the abovementioned resolution the motion for a resolution tabled by Mr KEY on concessionaire labour (Doc. 1-321/80).

On 12 March 1981 the report was referred back to the committee at the request of the rapporteur.

At its meeting of 20 March 1981 the committee reconsidered the report and adopted the motion for a resolution and explanatory statement unanimously save one vote against.

Present: Mr Seefeld, chairman; Dame Shelagh Roberts, Mr De Keersmaeker, Mr Carossino, vice-chairmen; Mr Key, rapporteur; Mr Albers, Mr Buttafuoco, Mr Cardia, Mr Doublet, Mr Gabert, Mr Gendebien, Mr Janssen van Raay, Mr Klinkenborg, Mr Markozanis (deputizing for Mr Dalakouras), Mr Moorhouse, Mr Moreland, Mr Nicolaou (deputizing for Mr Loo), Mrs von Alemann and Mr Voyadzis.

The opinion of the Committee on Social Affairs and Employment is attached.

C O N T E N T S

A

The Committee on Transport hereby submits to the European Parliament the following motion for a resolution together with explanatory statement

MOTION FOR A RESOLUTION

on the harmonization of social provisions in the transport sector

The European Parliament,

- having regard to the motion for a resolution tabled by Mr Albers and others (Doc. 1-536/79),

- having regard to Article 117 of the EEC Treaty,

- having regard to the Council Decision of 13 May 1965,

- having regard to its previous resolutions[1] and reports[2] on the harmonization of social provisions in the transport sector,

- having regard to the second report of the Committee on Transport and the opinion of the Committee on Social Affairs and Employment (Doc. 1-89/81),

1. Reaffirms its support for the harmonization of social provisions in all transport sectors where this leads to the elimination of distortions of competition, the improvement of the working conditions of transport workers and the raising of health and safety standards, and contributes to the general improvement of transport in the Community;

2. Deplores the lack of progress achieved by the Community in this field in recent years, particularly with regard to the second stage proposal for the harmonization of social provisions in road transport and an initial proposal for social harmonization in the inland waterway sector;

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[1] OJ Nos. 63, 3.4.67, C66, 1.7.71, C124, 17.10.71, C108, 10.12.73, C6/77, C57/75

[2] Docs. Nos. 31/67, 59/71, 170/71, 197/73, 396/76, 484/76

3. Urges the Commission to give greater priority to social harmonization than has been the case hitherto, in particular by increasing the number of staff responsible for this field in its competent Directorates-General, and invites the Commission to inform Parliament of its intentions in this respect by 30 June 1981;

4. Calls upon the Commission to seek means of ensuring that the information supplied by Member States under Article 17 of Regulation 543/69 concerning the implementation of the said regulation is more up-to-date and complete than it has been in the past, and asks that Parliament be automatically consulted each year on the general report submitted by the Commission to the Council pursuant to the aforementioned Article;

5. Points out that the active support of transport workers and their trade union organizations, and that of employers and their organizations, is an essential prerequisite of a genuine common transport policy;

6. Invites the Commission, therefore, to consider introducing a complete system of joint consultative committees for each mode of transport;

7. Emphasizes to the Commission its firm belief that continued attempts to turn a blind eye to the social implications of Community transport policy can only harm the Community's image and hamper economic progress;

8. Calls upon Member States and the Commission to ensure that regulations on social provisions in transport are fully implemented and enforced;

9. Calls on the Council to make progress on the Commission's draft directives on the harmonization of social provisions in transport and for the Commission to make further proposals for the development of legislation in this field after consultation with the appropriate employer, employee and user organizations;

10. Calls on the Commission to take fuller account of the problems faced by remote islands and depopulated and isolated areas in future proposals in this field;

11. Instructs its President to forward this resolution to the Council and the Commission.

B

## EXPLANATORY STATEMENT

### I INTRODUCTION

1. The European Parliament has consistently supported the principle of the harmonization of social provisions in the transport sector[1] where it leads to

(i) the elimination of distortions of competition,

(ii) the raising of health and safety standards in each of the various sectors, and

(iii) the improvement of the social position of transport workers.

Although these three aims remain as valid as ever, Community action in this field in recent years has become painfully slow. Your rapporteur considers it essential for the furtherance of the Community's general economic and social objectives in the field of transport that the Commission and the Council should reactivate forthwith the search for satisfactory solutions to this problem. However difficult the negotiations, however much opposition is encountered on individual points, experience has proved that the problem will not go away and the Council, the Commission and Parliament are not only duty-bound under the Treaty but also morally committed to the workers of the Community to make social progress in this vital field.

2. The preamble to the EEC Treaty refers to the need to ensure 'social progress', while Article 117 is even more explicit:

> 'Member States agree upon the need to promote improved working conditions and an improved standard of living for workers, so as to make possible their harmonization while the improvement is being maintained.
>
> 'They believe that such a development will ensue not only from the functioning of the common market, which will favour the harmonization of social systems, but also from the procedures provided for in this Treaty and from the approximation of provisions laid down by law, regulation or administrative action.'

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[1] See, for example, SEEFELD report, Doc. 396/76

3. By its decision of 13 May 1965, the Council aimed at giving practical effect to the provisions of the Treaty by undertaking to harmonize (Article 12), by 31 December 1968, working hours in the railway, road transport and inland navigation sectors, both separately and between the modes.

4. However this laudable objective failed to give rise to practical measures before 1969, which saw the adoption of Regulation 543/69 concerning the harmonization of certain social legislation in the road transport sector. This regulation, which deals with only one sector, has been subsequently amended[1] in order to make it more flexible and hence more effective.

5. As regards inland navigation, in 1975 the Commission submitted an ill-fated proposal for a regulation on the harmonization of social legislation relating to goods transport by inland waterway[2]. This was later shelved in favour of a revised proposal submitted to the Council in 1979 which is currently the subject of consultations with workers' and employers' representatives. Your rapporteur considers it important that this revised proposal should take due account of the particular conditions prevailing in the various regions of the Community.

6. The Commission has not put forward any proposals concerning the railways. Nor have any specific proposals been submitted in the two sectors not referred to in the 1965 Decision, namely air and sea transport.

7. The results of the 1965 outline Decision are thus meagre in the extreme, and there are as yet few signs of a new impetus being given to social harmonization in transport in the foreseeable future.

The failure to act in this area constitutes yet another obstacle to the establishment of a common transport policy, and has also laid the Community open to accusations of bad faith by the trade unions, whose cooperation, together with that of employers, is an essential precondition to the effective implementation of numerous other measures in the transport sector.

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[1] Regulation (EEC) No. 514/72, OJ No L67, 20.3.1972
Regulation (EEC) No. 515/72, OJ No L67, 20.3.1972
Regulation (EEC) No. 2827/77, OJ No L334, 24.12.1977
Regulation (EEC) No. 2829/77, OJ No L334, 24.12.1977;
See also SEEFELD report Doc. 396/76

[2] See OSBORN report, Doc. 484/76

8. In the opinion of your rapporteur, given that the Council and the Commission have for their part produced little in the way of positive results over the past fifteen years, Parliament has a particular responsibility to impress upon the other Community institutions the urgent need for action in this field, which has a direct affect on the working conditions and daily lives of millions of transport workers throughout the EEC.

## II ROAD TRANSPORT

### 9. Regulation 543/69 - the current position

Below is a summary of the most important provisions of the codified version of Regulation 543/69[1], incorporating subsequent amending regulations:

(i) Article 1(5) defines the 'daily rest period' as 'any uninterrupted period of at least eight hours during which the crew members may freely dispose of their time and are entirely free to move about as they please';

(ii) Article 4 excludes from the scope of the regulation 'vehicles used for the carriage of passengers on regular services where the route covered by the service in question does not exceed 50km' (i.e. urban bus services);

(iii) Articles 7 and 8, on 'driving periods', contain a number of key provisions viz.: 'no period of continuous driving shall exceed four hours';

'the total period of driving time between two rest periods shall not exceed eight hours';

'driving shall be interrupted for a period of not less than one hour at the end of the first four-hour period of continuous driving' (or for two breaks of not less than thirty minutes each);

(iv) Other important provisions govern rest periods (Article 11) and individual control books and the tachograph (Article 14). It should be noted that Article 11 provides for eleven hours' daily rest with a reduction to eight hours only twice a week.

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[1] OJ No. C73, 17.3.79

10. Your rapporteur would also draw attention to the important legal point contained in Article 2 of the codified Regulation, by virtue of which the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR)[1] applies to international road transport operations to and/or from third countries which are contracting parties to that agreement. Since the entry into force of the AETR on 1 January 1978, the Community has been competent to negotiate any modifications to it, following the ruling of the Court of Justice[2] that the subject matter of the AETR comes within the scope of Regulation 543/69.

11. The Council's failure to adopt the Commission's proposal for the second stage of social legislation relating to road transport[3] has meant that it has not been possible to define, inter alia, spreadovers, holidays and the working week.

It is up to the Council to resist the demands of a minority of employers over-keen to ensure quick turnarounds and maximum running of vehicles, to the detriment of road safety and drivers' working conditions. Although he would consider it inappropriate in the present report to go into the details of the proposal lying before the Council, your rapporteur would maintain that the need to fix the duration of spreadovers and the working week should be seen as specific priority objectives.

12. Control: Article 17 of Regulation 543 stipulates that 'each year the Commission shall present to the Council a general report on the implementation of this Regulation by Member States'.

13. The last such report[4] was published by the Commission on 8 September 1980 and covers the period 1 January 1976 to 31 December 1977. These dates suffice to indicate the difficulties involved in obtaining up-to-date information on the enforcement and monitoring of the implementation of Regulation 543.

14. Furthermore, it quickly becomes apparent from an examination of the most recent report that, as the Commission itself states somewhat euphemistically, seeing that 'the information given in the notifications of the Member States continued to vary in nature, it is difficult to make a totally reliable comparative assessment'[5]

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[1] See SEEFELD report, Doc. 145/75

[2] Case 22/70

[3] COM(76) 85 final; see also SEEFELD report Doc. 396/76

[4] COM(80) 486 final

[5] COM (79) 713 final, p.2

15. For example, no information whatsoever is available on the situation in Ireland; in Italy, non-Italian vehicles are not subject to any controls. These two countries, in addition to Luxembourg, failed to provide quantitative data on penalties imposed, while the UK and Ireland confined their application of the Regulation to international traffic.

16. However, the Commission does welcome the improvement of France's control system and acknowledges the valuable source of evidence provided by the Federal Republic of Germany, in particular that concerning the lack of uniform application in the various Member States.

17. Your rapporteur can only conclude that as the statistical and other relevant information submitted for the Commission's report by the Member States is too often incomplete, the report itself cannot serve as a proper basis for an assessment of the enforcement of Regulation 543/69. It is but a small step to the further conclusion that the actual enforcement of the Regulation - as opposed to merely the control of its application - leaves much to be desired.

18. Recording equipment (tachographs)[1] : following major revisions and lengthy negotiations in the Council, the Commission expects that Regulation 1463/70[2] will at last be fully complied with in all Member States by 31 December 1981, now that the governments of the United Kingdom and Ireland have submitted their implementing measures[3].

## III. INLAND NAVIGATION

19. As mentioned above, in 1975 the Commission submitted to the Council a proposed regulation harmonizing certain social provisions in the inland waterway sector[4], on which the European Parliament delivered an opinion in the OSBORN report[5]. The European Parliament and the Economic and Social Committee proposed substantial amendments to the 1975 proposal, mainly to counter possible discrimination against women and the granting of national derogations, with the result that in 1979 the Commission came forward with a new draft proposal. This new draft is still the subject of consultations between both sides of industry.

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1 See SEEFELD report, Doc. 440/79

2 As amended by Regulations 1787/73 and 2828/77

3 See Commission reply to written question No. 1157/79 by Mr GENDEBIEN

4 OJ No. 259, 12.4.1975, p.5

5 Doc. 484/76

20. It seems clear that the employer organizations of several Member States remain opposed to a number of key provisions contained in the draft proposal. Serious difficulties persist with regard to the scope of the proposed regulation (arising from wide differences in types of vessel and operating characteristics on various grades of inland waterway) and the respective competences of the Commission of the Communities and the Central Commission for the Navigation of the Rhine. The latter body, which has its headquarters in Strasbourg, tends to consider itself sole regulatory authority for Rhine navigation, which represents by far the largest proportion of the Community's inland waterway network.

Clearly, a major impetus must be given by the Commission and the Council if its revised proposal is not to suffer a similar fate to that suffered by the 1975 proposal, and this will require a greater understanding of the needs and aspirations of transport workers throughout the Community.

## IV. RAIL TRANSPORT

21. Notwithstanding its obligations in this respect, under the Council Decision of 1965, the Commission has submitted no formal proposal for the harmonization of social provisions in the railway sector. Discussions were held between workers and employers at ad hoc meetings between 1973 and 1975. Partly because of the lack of progress in other sectors, work was then abandoned. Your rapporteur condemns this abandonment totally.

22. There is general agreement that working conditions in the railways are often more favourable than in most other sectors, with fairly stringent internal regulations on working hours. However, systematic reductions of railway staff and the perennial problem of the under-investment of railway operations does have serious consequences both in social terms and as regards competition vis-à-vis other modes.

Your rapporteur would suggest that, in the drive for 'upward harmonization' of social conditions in transport, the example of the railways could be usefully applied where possible to other sectors rather than ignored altogether.

## V. AIR TRANSPORT

23. As in the case of the railways, no proposals have been submitted by the Commission concerning social provisions in air transport, a field which was not covered by the 1965 Decision.

Your rapporteur understands that the Commission intends to publish, by the end of 1980, a study of working hours and labour costs in civil aviation.

24. The recent Commission memorandum on air transport refers to working conditions and the mutual recognition of qualifications[1] but makes no specific proposals. Whereas the majority of Member States, as members of the International Civil Aviation Organization, recognize Annex I to the Chicago Convention, not all its provisions have been fully implemented.

25. Your rapporteur recognizes that in this expanding field of transport, where the safety of the workers and the passengers is paramount, a major initiative must be taken, and awaits with interest the report to be drawn up on the Commission memorandum by Mr K.-H. Hoffmann.

## VI SEA TRANSPORT

26. Once again, the Commission has made no proposals concerning social provisions in this sector. However, your rapporteur is more confident that progress can be achieved in this field, if only because the evident distortions of competition which are caused by the engagement of ill-qualified crews working excessive hours in vessels which fail to comply with minimum IMCO safety standards ought to preclude indefinite procrastination, whatever the precedents.

27. Recent positions adopted by the Council would also seem to justify grounds for relative optimism. In 1979 the Council examined but took no action on French Government proposals for a minimum of social harmonization (including an indirect reference to working hours) in sea transport.

The Council meeting of 24 June 1980 saw a further initiative by the French delegation, which gave a statement on the French Government's memorandum on the safety of shipping and measures to combat pollution. The Commission has subsequently submitted a proposal and a communication on this subject[2]. It can be logically expected that the final positions reached by the Council and the Commission on these questions will reflect the clear interdependence between the safety of shipping and the social conditions of crew.

28. Your rapporteur also views with the gravest concern the growing tendency of cruise liners to flout the ILO minimum wage recommendations by taking on 'concessionaire labour' and urges the competent national and Community authorities to take immediate steps to halt this indefensible practice[3].

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1 Bulletin of the EC, Supplement 5/79, p.21

2 Docs. 1-332/80 and 1-333/80

3 See Annex II

## VII. CONCLUSIONS

29. In addition to the abovementioned failures by the Council to adopt specific proposals submitted to it following consultation of the European Parliament and the Economic and Social Committee and by the Commission to bring the workers and the employers to an agreement on amended proposals, other important factors affecting social conditions in transport have received scant attention at Community level. These include safety and hygiene at work, preventive health measures, vocational training, collective agreements in transport, EEC implementation of ILO Conventions and the harmonization of sanctions (with particular reference to Regulation 543).

30. Clearly, if the Community is to achieve progress on these important matters, the Commission must dispose of sufficient specialized staff. The Committee on Transport is extremely concerned by the consequences for social harmonization of the proposed reorganization of the Commission's Directorate-General for Transport, and would urge the new Commission, upon its appointment on 1 January 1981, to reconsider the position in this respect. As stated above, the fact has to be faced that the problem of social harmonization will not disappear, and its solution is unlikely to be facilitated by staff reductions or dismemberment.

31. In other words, the first move the committee is asking for is a change in spirit and approach by the Commission with regard to the harmonization of social provisions in transport. This question has been swept under the table for many years: the committee believes that to continue this head-in-the-sand approach to the social aspects of transport is both politically inadvisable and economically inconsistent. It therefore calls upon the Commission to declare before the Committee on Transport its future intentions in this matter.

32. The Committee on Transport would make two further specific proposals:

(i) that the Commission should continue seeking ways of ensuring that the information supplied to it by Member States under Article 17 of Regulation 543/69 is up-to-date and more complete than it has been hitherto, in the light of the Council resolution of 24 June 1980 implementing certain Commission proposals in this respect;

(ii) that the Commission should resume work within the framework of Joint Committees, which ceased to function following the enlargement of the Community in 1973, for each mode of transport, together with a coordinating committee.

33. In conclusion, the Committee on Transport would reassert its firm belief that the pursuit of the Community's economic objectives, in the transport sector as in others, must go hand-in-hand with social progress. The basis for such action in the transport field is laid down in the Treaty and in the Council Decision of 13 May 1965. The Commission and the Council should not forget that the active support of transport workers and their trade union organizations, and that of employers, is an essential requirement if a genuine common transport policy is ever to get off the ground. Consultation procedures must be improved, and a new political will forged. Parliament awaits with keen anticipation fresh measures from the Commission with a view to harmonizing social provisions in road transport, railways, inland navigation, air transport and shipping.

## OPINION OF THE COMMITTEE ON SOCIAL AFFAIRS AND EMPLOYMENT

Draftsman: Mr N. ESTGEN

On 29 May 1980 the Committee on Social Affairs and Employment appointed Mr Estgen draftsman.

It considered the draft opinion at its meeting of 28/29 October 1980 and adopted it unanimously with 6 abstentions on 29 October 1980.

Present: Mr Van der Gun, chairman; Mr Estgen, draftsman; Mr Barbagli, Mr Boyes, Ms Clwyd, Mrs Dekker, Mr Ghergo (deputizing for Mrs Cassanmagnago Cerretti), Mr Henckens (deputizing for Mr Nordlohne), Mrs Herklotz (deputizing for Mr Sarre), Mrs Tove Nielsen, Mr Oehler, Mr Prag, Mrs Salisch, Mr Spencer, Mr J. D. Taylor, Mr Verhaegen and Mr Vernimmen (deputizing for Mr Dido).

The Committee on Social Affairs and Employment, while recognizing and fully endorsing the comprehensive analysis of social problems provided in the draft report, requests the Committee on Transport to include or give greater emphasis to the following points in its resolution:

1. Considers that shortcomings have become apparent in the implementation of provisions which fall within the areas of responsibility of several Directorates-General of the Commission and that these shortcomings cannot be attributed solely to a lack of staff; instead they indicate a need for increased scope for cooperation to allow the Commission to make better use of its available resources; calls upon the Commission, therefore, with regard to the specific case of the harmonization of social provisions in the transport sector, to improve cooperation between Directorates-General V and VII;

2. Is of the opinion that the wholly inadequate implementation of both Regulation 543/69[1] and amended Regulation 1463/70[2] is the result of poor - not to say non-existent - supervision in the Member States and calls upon the Commission, therefore, to remedy this situation with the means available to it;

3. Has been informed that the three directives on equal treatment of women in the transport sector, particularly in inland navigation - and more especially Rhine navigation because of the decisions taken by the Commission for the Navigation of the Rhine - are not applied in practice, and calls urgently for implementation of these Community directives which are also intended to apply to this sector;

4. Points out that, contrary to the declared aims of the European Community, the difficulties encountered in transport across frontiers are steadily increasing, and that this is leading to a substantial deterioration in the living and working conditions of lorry drivers as a result of much lost time, the lack of rest facilities at frontier crossing points, etc; urgently requests the Commission, therefore, finally to come to grips with the Community principle of freedom of movement and to investigate the above developments with a view to improving the living and working conditions of the employees concerned;

5. Calls on the Commission - not least in the interests of transport safety and of adequate vocational training but also, and above all, with a view to improving conditions in this field of employment - to give active support to trade union organizations in the various transport sectors;

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[1] OJ No. C 73, 17.3.1979

[2] OJ No. L 164, 27.7.1970
(amended by Regulations Nos. 1787/73 and 2828/77)

6. Renews, in the light of the above, the request repeatedly made over the years, particularly at the various tripartite conferences, for sectoral consultative committees with joint representation, and calls upon the Commission finally to put this proposal into effect.

ANNEX I

MOTION FOR A RESOLUTION (Doc. 1-536/79)

tabled by Mr ALBERS, Mr SEEFELD, Mr GABERT, Mr KLINKENBORG, Mr KEY, Mr LOO, Mr ARNDT, Mr ENRIGHT, Mr LINKOHR and Mr OEHLER

pursuant to Rule 25 of the Rules of Procedure

on harmonization of social provisions in the transport sector

The European Parliament,

- having regard to the harmonization of social provisions in road transport which has already taken place,

- aware that there are still considerable differences in the conditions of employment in the transport sector within the European Community,

- concerned that these differences may have a detrimental effect on road safety and distort competition,

1. Calls on the Commission of the European Communities to put forward without delay further proposals to harmonize the social provisions in road transport, railways, air transport, inland navigation and shipping;

2. Urges the Commission to submit a report on the implementation and monitoring of those social provisions in the transport sector which have already been harmonized;

3. Instructs its President to forward this resolution to the Commission of the European Communities.

MOTION FOR A RESOLUTION (Doc. 1-321/80)

tabled by Mr Brian KEY
on behalf of the Socialist Group

pursuant to Rule 25 of the Rules of Procedure

on concessionaire labour on European registered vessels

The European Parliament,

1. Notes with alarm the increasing tendency of cruising liners, many registered in European countries particularly Italy, Holland, Britain, Greece and Norway, to replace fully wage paid seafarers with concessionaire labour;

2. Notes that the concessionaire payment system replaces a regular monthly living wage with a monthly payment of between $45 and $60 and the requirement to exhort passengers to pay gratuities to concessionaire labour. This provision of 'contracted' concessionaire labour allows shipowners to abandon their responsibilities to their employees and is contrary to the ILO Minimum Wage recommendations of $187 (for an AB seaman) to which all countries concerned are signatories;

3. Further, is concerned at the continuing practice on European registered vessels to pay differing wage payments to men doing the same job in the same vessels based upon the nationality of the seafarer and in defiance of racial discrimination laws and recommendations;

4. Joins with the European Trade Union Movement and employers in condemning this growing practice on European registered ships and instructs its Transport and Social Affairs Committees to investigate and report back with its recommendations;

5. Reaffirms its view that the action taken by some European shipowners in the name of competition is contrary to fair competition principles in the Treaty of Rome and recommends that the committees consider the following which should be common throughout the Community:
   (a) safety standards and regulations;
   (b) conditions of employment;
   (c) hours of employment;
   (d) system of wage payments;

6. Instructs its President to forward this resolution to the Commission of the EEC and to the governments of the Member States.