



Council of the
European Union

Brussels, 24 May 2023
(OR. en)

9734/23

**Interinstitutional File:
2023/0155(COD)**

**TRANS 203
SOC 343
CODEC 949
IA 123**

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	24 May 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 256 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 561/2006 as regards minimum requirements on minimum breaks and daily and weekly rest periods in the occasional passenger transport sector

Delegations will find attached document COM(2023) 256 final.

Encl.: COM(2023) 256 final



Brussels, 24.5.2023
COM(2023) 256 final

2023/0155 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 561/2006 as regards minimum requirements on minimum breaks and daily and weekly rest periods in the occasional passenger transport sector

{SEC(2023) 197 final} - {SWD(2023) 137 final} - {SWD(2023) 138 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

This proposal concerns a revision of Regulation (EC) No 561/2006 of the European Parliament and of the Council¹. That Regulation sets maximum daily and weekly driving times, minimum break periods, and minimum daily and weekly rest periods for drivers in the commercial transport sector.

Regulation (EC) No 561/2006 covers two types of drivers. The first type is drivers engaged in the carriage by road of goods by vehicles whose maximum permissible mass exceeds 3.5 tonnes (as of 1 July 2026, Regulation (EC) No 561/2006 will also apply to vehicles whose maximum permissible mass exceeds 2.5 tonnes, when engaged in international transport operations or in cabotage operations). The second type is drivers engaged in the carriage of passengers by vehicles which are constructed or permanently adapted for carrying more than nine people, including the driver.

Regulation (EC) No 561/2006 applies to road-transport operators and their drivers: (i) regardless of whether they are involved in the carriage of passengers or goods; or (ii) regardless of whether, when carrying passengers, the transport is regular or occasional. However, the occasional-passenger transport sector has different characteristics compared with freight transport and regular-passenger transport. Those different characteristics mean that the occasional-passenger transport sector has a different impact on the working conditions of drivers, and therefore requires an adaptation of the rules on driving times, minimum breaks and rest periods applicable to them.

Occasional-passenger transport is especially characterised by high seasonality (peaks in demand for passenger trips in certain seasons of the year, in particular during winter and summer holidays). It is also characterised by different driving distances depending on the touristic activities undertaken by passengers, such as visits. That means that it is characterised by longer distances driven at the beginning and the end of the tour and by a shorter duration of driving time at the place where the touristic activities take place. The sector needs to accommodate unplanned and impromptu reasonable passenger requests in terms of additional stops, changes of routes, or changes of schedule. There is generally less driving time than in freight transport or in regular bus services. Drivers also usually sleep in hotels, and seldom drive at night. At the same time, drivers might during the working time be subject to some additional activities, often resulting from interactions with passengers, for instance giving advice.

The occasional-passenger transport sector has been disputing the adequacy of the current rules for many years. The adequacy of the current rules was also subject to the 2017 ex post evaluation of EU social legislation in road transport² as part of the regulatory fitness programme (REFIT).

¹ Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (OJ L 102, 11.4.2006, p. 1).

² SWD(2017)184 final, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017SC0184>.

However, when preparing the legislative proposal following the evaluation, the Commission chose to first address the most acute problems of drivers engaged in freight transport, such as long periods away from home and inadequate working and resting conditions. The proposal for a revision of Regulation (EC) No 561/2006, adopted by the Commission as part of the Mobility Package I on 31 May 2017³, did not therefore address the particular issues faced by drivers working in occasional-passenger transport by bus and coach. However, the co-legislators did discuss this issue, and when adopting Regulation (EU) 2020/1054 of the European Parliament and of the Council⁴, it was decided to insert Article 8(10) in Regulation (EC) No 561/2006. That Article required the Commission to assess whether more appropriate rules for drivers engaged in occasional services of carriage of passengers, as defined in point 4 of Article 2 of Regulation (EC) No 1073/2009⁵, could be adopted.

The impact assessment carried out for this initiative⁶ confirmed that the current rules are inappropriate to a certain extent for the occasional-passenger transport sector. Rest periods and breaks are often required when drivers do not need them, making them unable to organise and carry out trips as desired by customers, or during busy seasonal periods. That can affect drivers' incomes, especially the incomes of self-employed drivers. The current rules also negatively affect the working conditions of drivers, since they are unable to take breaks at convenient times and are unable to minimise nights spent away from home. That in turn affects drivers' stress and fatigue levels, reducing the attractiveness of the driving profession and putting road safety at risk.

Furthermore, there is currently an uneven playing field between providers of occasional international and domestic (national) passenger transport services. That is because occasional services taking place within one Member State only cannot apply the twelve-day derogation (i.e. the postponement of the weekly rest period for up to 12 consecutive periods of 24 hours following a previous regular weekly rest period) laid down in Article 8(6)(a) of Regulation (EC) No 561/2006, as laid down for international services. For example, a long-distance tour within Germany is not eligible for the twelve-day derogation, whereas a tour between Belgium and Luxembourg is eligible for that derogation, even though there may be no difference between those two operations in terms of distance and duration.

For that reason, this proposal aims to: (i) ensure a more flexible distribution of breaks and rest periods; and (ii) lay down equal treatment between international and domestic occasional-passenger transport operations. It does not introduce any changes to the minimum duration of breaks or rest periods or to maximum driving times. It therefore seeks to guarantee efficient and high-quality occasional-passenger transport services and improve working and driving conditions for drivers, in particular to minimise their stress and fatigue.

³ COM(2017) 277 final.

⁴ Regulation (EU) 2020/1054 of the European Parliament and of the Council of 15 July 2020 amending Regulation (EC) No 561/2006 as regards minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods and Regulation (EU) No 165/2014 as regards positioning by means of tachographs (OJ L 249, 31.7.2020, p. 1).

⁵ Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006 (recast) (OJ L 300, 14.11.2009, p. 88).

⁶ SWD(2023)137 final.

- **Consistency with existing policy provisions in the policy area**

The present proposal for a revision of Regulation (EC) No 561/2006 is consistent with the Union's road-transport policy, and in particular with the relevant rules forming the framework of the Union's internal market for road transport. In particular, it is consistent with Regulation (EU) No 165/2014 on tachographs in road transport⁷; Directive 2002/15/EC on the organisation of the working time of persons performing mobile road-transport activities⁸; and with Directive 2006/22/EC on minimum conditions for the implementation of social legislation relating to road-transport activities⁹. It is also consistent with Regulation (EC) No 1073/2009 on common rules for access to the international market for coach and bus services.

- **Consistency with other EU policies**

The proposal for a revision of Regulation (EC) No 561/2006 is fully consistent with the strategy on sustainable and smart mobility¹⁰. That strategy calls for helping the transport sector and related sectors in the value chain – such as travel and tourism operators – to bounce back better from the COVID-19 pandemic and become more resilient while fostering a more attractive working environment for transport workers. Moreover, the initiative is consistent with other EU policies, notably measures to ensure road safety.

More broadly, the proposal contributes to one of the Sustainable Development Goals (SDGs) that the EU is committed to implementing as part of the 2030 Agenda, namely SDG 8 on promoting economic growth, productive employment and decent work¹¹.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

This proposal amends Regulation (EC) No 561/2006 and is therefore based on the same legal basis, namely Article 91(1) of the Treaty on the Functioning of the European Union (TFEU).

- **Subsidiarity (for non-exclusive competence)**

Under Article 4(2)(g) TFEU, the Union shares powers with Member States to regulate transport. However, existing rules can only be amended by the Union legislator.

⁷ Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport (OJ L 60, 28.2.2014, p. 1).

⁸ Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities (OJ L 80, 23.3.2002, p. 35).

⁹ Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC (OJ L 102, 11.4.2006, p. 35).

¹⁰ Communication from the Commission, *Sustainable and Smart Mobility Strategy – putting European transport on track for the future*, adopted on 9 December 2020 (COM/2020/789 final).

¹¹ Communication from the Commission on the *Next steps for a sustainable European future: European action for sustainability*, adopted on 22 November 2016 (COM(2016) 739 final).

In the absence of action at Union level, the problems identified would most likely persist. Such problems cannot be addressed by Member States individually, given their cross-border nature and the fact that the rules to be amended on breaks and minimum daily and weekly rest periods are currently laid down in Union legislation. Action at Union level is therefore justified.

- **Proportionality**

The proposal does not go beyond what is necessary to address the identified problems of: (i) inadequate working conditions for drivers engaged in occasional-passenger transport services by road; and (ii) an uneven playing field between transport services by road for occasional-domestic passengers and transport services by road for occasional-international passengers.

As indicated in Section 8.1 of the impact assessment, the proposal implements the policy option considered as the most suitable and proportionate solution. It provides a balance between improving working and resting conditions for drivers while enabling the operators to organise transport operations as efficiently as possible, and enforcing the existing rules effectively and consistently across borders.

- **Choice of the instrument**

As the proposal amends a regulation in force, the instrument chosen is also a regulation. Given the limited number of changes proposed, it is not necessary or appropriate to recast the Regulation.

3. RESULTS OF EX POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex post evaluations/fitness checks of existing legislation**

Regulation (EC) No 561/2006 was subject to an ex post evaluation finalised on 31 May 2017¹², and carried out as part of the regulatory fitness programme (REFIT).

The ex post evaluation essentially concluded that some of the rules on the organisation of driving times, breaks, and rest periods may not be fit for the occasional-passenger transport sector because of its specific service particularities and needs.

- **Stakeholder consultations**

This proposal follows a comprehensive stakeholder consultation that took place over the course of 2021 and 2022.

The Commission carried out a public consultation between 21 January 2021 and 18 February 2021 on the inception impact assessment¹³. A total of 87 answers were received from public authorities, industry stakeholders, trade unions, drivers and members of the public. In general, the feedback drew attention to a problem with the existing rules on occasional-passenger transport services by road. Subsequently, an open public consultation of

¹² SWD(2017)184 final.

¹³ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12488-Bus-and-coach-drivers-EU-rules-on-driving-and-rest-times_en.

12 weeks ran from 23 November 2021 to 18 February 2022, in which a total of 170 contributions were received. Valuable information was collected from that consultation on the challenges facing the sector and its actors, and on the preference of respondents for specific policy measures. In the course of the supporting study carried out by an external contractor, a targeted consultation with stakeholders was conducted to obtain specific and detailed insights into: (i) how the occasional transport of passengers by road operates; (ii) the problems associated with the existing legislation; and (iii) stakeholders' opinions on possible policy measures. Finally, three case studies were carried out by an external contractor, focusing on small, medium-sized and large operators in different Member States. Across the different consultation activities, input was especially sought from the following types of stakeholders: business associations; bus and coach operators; trade unions; individual drivers; and public authorities.

The comprehensive consultation revealed that views on the current rules and potential changes to those rules differ greatly – both between employers and employees, and between small companies and large companies. For the most part, trade unions and most (employed) drivers were opposed to introducing new flexibilities to the organisation of the work and to the rest periods for bus and coach drivers. That was because they felt that such changes would lead to a deterioration in working conditions. Nonetheless, drivers showed willingness to support some changes in the rules, for instance on: (i) an extension of the twelve-day derogation to domestic occasional trips; and (ii) albeit to a lesser extent, adjustments to the rules on break times and splitting mandatory breaks. The most vocal opposition concerned changes to the distribution of daily and weekly rest-time periods. In contrast, most bus and coach operators and their representatives favour extensive changes to the rules on the distribution of breaks and on daily and weekly rest periods, in order to address the specificities of the sector and accommodate better the needs of passengers. The proposal takes into account the diverging inputs received and aims to strike a balance between the problems identified and the legitimate interests of the consulted stakeholders.

- **Collection and use of expertise**

An external contractor assisted the Commission by producing a study¹⁴ to support the impact assessment underpinning the present proposal. The study provided valuable insights to the Commission, notably on designing the policy options; assessing their environmental, economic and social impacts; and collecting the views of the directly impacted stakeholders.

- **Impact assessment**

This proposal is supported by an impact assessment, which received a positive opinion with reservations from the Regulatory Scrutiny Board on 16 December 2022¹⁵. All of the Board's main comments were addressed in the revised version of the impact assessment report¹⁶.

The impact assessment considered three policy options, each of which comprised a set of policy measures. The policy options diverged in terms of: (i) flexibility granted to breaks; (ii) the eligibility criteria for postponing daily rest periods; and (iii) the need for adaptable weekly rest periods. All of these policy options, meant to apply only to occasional-passenger transport operations by road, are legislative in nature. The options include: (i) a limited adaptation to

¹⁴ <https://op.europa.eu/s/yEMI>

¹⁵ SEC(2023)197 final.

¹⁶ SWD(2023)137 final.

occasional-passenger transport operations by road in policy option A; (ii) more flexible schemes and arrangements for breaks and for daily and weekly rest periods in option C; and (iii) a semi-flexible approach in option B.

More specifically, the first policy option ('PO A') would allow drivers to split their breaks into periods of 30 and 15 minutes or into periods of 15 minutes each. It would also allow the postponement of the start of the daily rest period by 1 hour when the total daily driving period for that day does not exceed 7 hours, or a postponement by 2 hours when the total daily driving period does not exceed 5 hours. These derogations would only be possible once during a trip of 8 days or more. In addition, PO A would also align the rules for occasional-passenger transport services that take place solely within a single country with the rules for international services, by allowing the postponement of the weekly rest period for up to 12 consecutive 24-hour periods following a previous regular weekly rest period (the so-called twelve-day derogation).

The second policy option ('PO B') would allow drivers to split their breaks in a completely flexible manner. It would also allow drivers to postpone the start of their daily rest period by 1 hour when the total daily driving period for that day does not exceed 7 hours, or to postpone the daily rest period by 2 hours when the total daily driving period does not exceed 5 hours. Those derogations would only be possible twice during a trip of 8 days or more. Moreover, PO B would make it possible for drivers involved in occasional-passenger transport services by road lasting at least 8 days to distribute their weekly rest periods over 10 consecutive weeks.

The third policy option ('PO C') would also allow drivers to split their breaks in a completely flexible manner. It would also allow drivers to postpone the start of their daily rest periods by 1 hour when the total daily driving period for that day does not exceed 7 hours, or to postpone the daily rest period by 2 hours when the total daily driving period does not exceed 5 hours. Those derogations would be unlimited as regards the number of times they could be applied during a trip of 8 days or more. Moreover, PO C would also allow domestic services for occasional-passenger transport to use the twelve-day derogation, but PO C would also remove the 'single occasional service' condition¹⁷ and the obligation to take two regular weekly rest periods after using the twelve-day derogation.

The preferred option is PO A, since it is considered as the most effective and the most consistent policy option with the objective of Regulation (EC) No 561/2006 of improving working conditions. This is despite its lower benefit-to-cost ratio compared with PO C and PO B. However, in terms of striking a balance between measures providing more flexibility in organising breaks and rest periods on the one hand, and maintaining drivers' working conditions on the other hand, PO A is considered more proportionate than PO B and PO C.

The preferred option does not affect the total minimum breaks, maximum daily and weekly driving times, or minimum daily and weekly rest periods. The proposed measures under the preferred option only provide for: (i) flexibility in the distribution of breaks and daily rest periods; and (ii) the applicability of the twelve-day derogation to domestic occasional-passenger transport services.

¹⁷ A single occasional service in the context of Article 8(6a) of Regulation (EC) No 561/2006 means that drivers may perform only one tour within 12 days to be allowed to postpone their weekly rest period until the end of the twelfth day.

All three policy options lead to net benefits relative to the baseline. Net benefits are estimated to be the highest in PO C (between EUR 171.3 million and EUR 242.2 million), followed by PO B (between EUR 100.4 million and EUR 206.8 million) and PO A (between EUR 100.4 million and EUR 135.8 million). Adjustment cost savings for bus and coach operators in PO A are estimated at between EUR 106.4 million and EUR 141.9 million, expressed as present value over the 2025-2050 period relative to the baseline. PO B would result in adjustment cost savings of between EUR 106.4 million and EUR 212.8 million, and PO C would result in adjustment cost savings of between EUR 177.3 million and EUR 248.3 million. Cost savings are expected to reach their maximum effect in the first 2 years of implementation of the new rules and then to gradually decrease over time, with savings expected to be zero in the long-term (by 2050) relative to the baseline.

It was not possible to quantify the social impacts of the preferred option, notably due to the small size of the occasional-passenger transport-services sector and the scarcity of available data on this sector. Therefore, only a qualitative assessment was possible for the impact on working conditions. Environmental impacts were also assessed to be slightly positive but could not be quantified. For that reason, the calculated benefit-to-cost ratio does not reflect the impact on working conditions or on the environment, and the quantitative and qualitative assessments must be combined to make it possible to reach a fully informed view.

- **Regulatory fitness and simplification**

The proposal for a revision of Regulation (EC) No 561/2006, by adapting the current rules to the specificities of the occasional-passenger transport sector, will make it easier for operators and drivers to organise efficient and high-quality services. That will have a positive impact on their business performance, including through cost savings and an improved service offering. The net cost savings for businesses under the proposal are estimated at between EUR 105.8 million and EUR 141.3 million, expressed as present value over 2025-2050 relative to the baseline. SMEs, which tend to operate with a limited pool of drivers and buses, will benefit the most from the proposed measures. Public administrations may incur some limited costs in getting familiar with the new rules, estimated at EUR 5.4 million, expressed as present value over the 2025-2050 period relative to the baseline. At the same time, positive impacts are expected by resolving current compliance difficulties, although these benefits could not be quantified.

- **Fundamental rights**

This proposal contributes to the objectives of the Charter of Fundamental Rights of the European Union¹⁸, and in particular of its Article 31, which provides for the right to fair and just working conditions. That is because the proposal is expected to improve the working conditions of occasional bus and coach drivers, by allowing for limited but necessary flexibility in certain rules concerning breaks and daily and weekly rest periods.

4. BUDGETARY IMPLICATIONS

The proposal will have no implications for the Union budget.

¹⁸ OJ C 326, 26.10.2012, p. 2.

5. OTHER ELEMENTS

• **Implementation plans and monitoring, evaluation and reporting arrangements**

The application and effectiveness of this initiative will be monitored through a combination of national implementation reports and analysing data from the EU enforcement organisations and EU database sources. In particular, developments in the number, types and frequency of infringements against the newly amended social rules will be monitored and evaluated through implementation reports based on Article 17 of Regulation (EC) No 561/2006. This Article requires Member States to communicate the necessary information every 2 years to enable the Commission to draw up a report every 2 years on both the application of the Regulation and developments in the field in question. In addition, both economic impacts and the impacts on working conditions and drivers' well-being will be monitored and evaluated by Eurostat and/or dedicated surveys.

• **Detailed explanation of the specific provisions of the proposal**

The proposal introduces a limited number of amendments to Regulation (EC) No 561/2006 as follows:

- in Article 4, point (n) is amended to update the reference to Regulation (EC) No 1073/2009 of the European Parliament and of the Council, which repealed Council Regulation (EEC) No 684/92¹⁹;
- in Article 4, a new point (n)(a) is inserted to introduce the necessary definition of occasional-passenger services, as provided by Regulation (EC) No 1073/2009, and in order to clarify that that definition covers both national and international services;
- in Article 7, a new paragraph is added to allow drivers engaged in occasional-passenger transport services to split their obligatory break into three separate breaks of at least 15 minutes each, in addition to the existing possibility of splitting a break into two separate breaks of 15 and 30 minutes;
- in Article 8(2), a new paragraph is added to allow drivers engaged in a single occasional-passenger service lasting 8 days or more to postpone the start of the daily rest period by 1 hour, when the total daily driving period for that day does not exceed 7 hours, or to postpone the start of the daily rest period by 2 hours, when the total daily driving period for that day does not exceed 5 hours. The new paragraph also clarifies the conditions to be met for such derogations to apply;
- in Article 8(6)(a), the introductory phrase, as well as point (a), are amended to extend the possibility of postponing the weekly rest period for up to 12 consecutive 24-hour periods, following a previous regular weekly rest period, to national occasional passenger services.

¹⁹ Council Regulation (EEC) No 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus (OJ L 74, 20.3.1992, p. 1).

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EC) No 561/2006 as regards minimum requirements on minimum breaks and daily and weekly rest periods in the occasional passenger transport sector

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee²⁰,

Having regard to the opinion of the Committee of the Regions²¹,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Good working conditions for drivers and fair business conditions for road transport undertakings are of paramount importance to create an efficient, safe and socially accountable road transport sector, ensure non-discrimination and attract qualified workers. It is therefore essential that Union social rules on road transport are clear, proportionate, fit for purpose, easy to apply, and easy to enforce and implemented in an effective and consistent manner throughout the Union.
- (2) The rules on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods laid down by Regulation (EC) No 561/2006 of the European Parliament of the Council²² apply to road transport operators and their drivers, regardless of whether they are involved in the carriage of passengers or goods or of whether, as regards the carriage of passengers, the transport is regular or occasional.
- (3) However, the specificities of the occasional road passenger transport sector are not shared by the road freight transport or the regular road passenger transport sector.

²⁰ OJ C , , p. .

²¹ OJ C , , p. .

²² Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (OJ L 102, 11.4.2006, p. 1).

Occasional road passenger transport is characterised by high seasonality and different lengths of time spent driving which depend on the touristic activities undertaken by passengers. It needs to accommodate unscheduled and impromptu requests from passengers in terms of additional stops and changes of the route or the schedule, wherever feasible. Occasional road passenger transport generally involves less driving time when compared to freight transport or regular bus services. In addition drivers usually sleep in hotels, and seldom drive at night. On the other hand, drivers during the working time may be subject to some additional activities, often resulting from interactions with passengers.

- (4) The ex post evaluation of Regulation (EC) No 561/2006 concluded that some of the uniform rules related to minimum breaks and rest periods do not fit the specificities of occasional road passenger transport services. Further assessments undertaken by the Commission in that respect have shown that some of the requirements of Regulation (EC) No 561/2006 on breaks and daily and weekly rest periods are unsuitable and impractical for drivers and operators engaged in the occasional road carriage of passengers, as they have a negative impact on the ability to organise efficient and high-quality occasional passenger services, on the working conditions of drivers, and consequently on road safety.
- (5) Therefore, it is appropriate to adapt the requirements on minimum breaks and rest periods to fit, as well, the specific requirements of the occasional road passenger transport services. It is also appropriate to align applicable rules for national and international occasional-passenger transport services by road.
- (6) More flexible rules in the scheduling of the breaks and rest periods of drivers engaged in occasional road passenger transport services should in no way jeopardise the safety of drivers, road safety, increase the level of fatigue of drivers or lead to a deterioration in working conditions. Such flexibility should therefore not alter the current rules on the total minimum breaks, on maximum driving periods per day and per week and on the maximum fortnightly driving time.
- (7) To ensure the uniform definition of occasional passenger services, it is necessary to clarify that the definition set out in Regulation (EC) No 1073/2009 of the European Parliament and of the Council²³ covers both national and international services. It is also appropriate to update the reference to Regulation (EC) No 1073/2009, which repealed Council Regulation (EEC) No 684/92²⁴.
- (8) More flexibility in the scheduling of breaks for drivers engaged in occasional road passenger transport services should not prevent those drivers from taking breaks of the minimum duration necessary to enable them to rest properly. Therefore, it is appropriate to set a minimum duration for each break. Therefore, drivers engaged in occasional road passenger transport services should be allowed to split their obligatory break into three separate breaks of at least 15 minutes each, in addition to the other possibility of splitting a break.

²³ Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006 (recast) (OJ L 300, 14.11.2009, p. 88).

²⁴ Council Regulation (EEC) No 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus (OJ L 74, 20.3.1992, p. 1).

- (9) To ensure that greater flexibility in the scheduling of rest periods of drivers engaged in occasional road passenger transport services is not abused, it is essential to clearly delimit the scope of such flexibility and also to provide for appropriate checks. Drivers should therefore be able to postpone the start of their daily rest periods for a maximum period of 1 or 2 hours, in cases where the driving period for that day has not exceeded 5 or 7 hours respectively, and should postpone the start only when carrying out journeys of 8 days or longer. Such flexibility should be further limited to only one of each derogation during the period of the tour. It should be also possible to counter check such circumstances with a printout from the recording equipment or the duty roster, in addition to the tachograph records.
- (10) Limiting the possibility to postpone the weekly rest period for up to 12 consecutive 24-hour periods exclusively to occasional international passenger services has a negative impact in terms of undistorted and fair competition between operators, especially small and medium enterprises. Occasional national passenger services might as well provide their services under the same conditions as occasional international passenger services in terms of the distance travelled or the duration or services rendered to passengers. Occasional national passenger services should therefore also benefit from such possibility.
- (11) Since the objectives of this Regulation, namely to ensure fair competition and improve working conditions and road safety through the harmonisation of the rules on breaks and rest periods for drivers engaged in occasional road passenger transport services, cannot be sufficiently achieved by the Member States, but can rather, by reason of the nature of the objectives, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (12) Regulation (EC) No 561/2006 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 561/2006 is amended as follows:

- (1) Article 4 is amended as follows:

- (a) point (n) is replaced by the following:

‘(n) ‘regular passenger services’ means national and international services as defined in Article 2, points 2 and 3, of Regulation (EC) No 1073/2009 of the European Parliament and of the Council*;

* Regulation (EC) No 1073/2009 of the European Parliament and the Council of 21 October 2009 on common rules for access to the international market for coach and bus services and amending Regulation (EC) N° 561/2006 (OJ L 300, 14.11.2009, p. 88).’;

(b) the following point (na) is inserted:

‘(na) ‘occasional passenger services’ means national and international occasional services as defined in Article 2, point 4, of Regulation (EC) No 1073/2009;’;

(2) in Article 7, the following fourth paragraph is added:

‘For a driver engaged in an occasional passenger service the break referred to in the first paragraph may also be replaced by three breaks of at least 15 minutes each, distributed over the driving period referred to in the first paragraph, in such a way as to comply with the first paragraph.’;

(3) Article 8 is amended as follows:

(a) the following paragraph 2a is inserted:

‘2a. Provided that road safety is not thereby jeopardised, a driver engaged in an occasional passenger service with a duration of at least 8 days may derogate from paragraph 2, first subparagraph, in the following ways:

(a) postponing the daily rest period by at most 1 hour, provided that the total accumulated driving time for that day has not exceeded 7 hours;

(b) postponing the daily rest period by at most 2 hours, provided that the total accumulated driving time for that day has not exceeded 5 hours.

Each of the derogations referred to in the first subparagraph, points (a) and (b), may be used only once during the journey referred to in the first subparagraph.

The driver shall indicate the reason for such derogation, manually on the record sheet of the recording equipment, on a printout from the recording equipment or in the duty roster, at the latest on arrival at the destination or at the suitable stopping place.’;

(b) in paragraph 6a, the introductory phrase and point (a) are replaced by the following:

‘By way of derogation from paragraph 6, a driver engaged in a single occasional passenger service may postpone the weekly rest period for up to 12 consecutive 24-hour periods following a previous regular weekly rest period, provided that:

(a) the service lasts at least 24 consecutive hours;’.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President