

## INCEPTION IMPACT ASSESSMENT

Inception Impact Assessments aim to inform citizens and stakeholders about the Commission's plans in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have, including on possible impacts of the different options.

<b>TITLE OF THE INITIATIVE</b>	<i>Assessment of the needs for specific driving and rest time rules for drivers in occasional transport of passengers by bus or coach</i>
<b>LEAD DG (RESPONSIBLE UNIT)</b>	DG MOVE.C1
<b>LIKELY TYPE OF INITIATIVE</b>	<i>Legislative (targeted revision of the Regulation)</i>
<b>INDICATIVE PLANNING</b>	Q2 2021
<b>ADDITIONAL INFORMATION</b>	<a href="https://ec.europa.eu/transport/modes/road/road-initiatives_en">https://ec.europa.eu/transport/modes/road/road-initiatives_en</a>

**The Inception Impact Assessment is provided for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the Inception impact assessment, including its timing, are subject to change.**

### A. Context, Problem definition and Subsidiarity Check

#### Context

Under the current UE legislation, professional drivers involved in the occasional carriage of passengers by bus and coach are subject to the same rules on the organisation of working and driving times, breaks and rest periods as truck drivers involved in the carriage of goods (Regulation (EC) No 561/2006). The revised rules were adopted by the co-legislators on 15 July 2020 (Regulation (EU) 2020/1054). However, the revision focused on dealing with the most pressing issues in the road haulage sector and it did not address the concerns of the bus and coach sector that the general rules are not adapted to its operational specificities making it difficult to comply with the rules in force. The new Article 8(10) in the revised regulation requires the Commission to assess and report to the Parliament and the Council on the need for more adequate rules for drivers in occasional services of carriage of passengers.

This initiative will draw on the results of the ex-post evaluation of the social legislation in the road transport sector carried out in 2015-2016 (SWD(2017)184) in preparation of Mobility Package I. It will complement the impact assessment accompanying the legislative proposal revising the social legislation (SWD(2017) 186 final) by adding specific characteristics of the passenger segment of the road transport market and differential fact finding to see how the problem of that segment might have evolved, taking into account also the COVID-19 effects. Based on the incremental targeted data collection and analysis the initiative will assess possible adaptations of current rules and their impacts on workers' social protection rights, competition conditions for operators in bus and coach sector as well as on road safety in general.

#### Problem the initiative aims to tackle

This initiative addresses the problem of appropriateness of applying the uniform rules on driving and rest times set out in Regulation (EC) No 561/2006 to the occasional transport of passengers by bus and coach. This issue had already been addressed in the ex-post evaluation of the social legislation in road transport. The analysis found evidence that the rules are not well adapted to the needs of the road passenger transport sector, which reduces their effectiveness through the following problems:

- high regulatory costs for operators, especially for smaller companies;
- difficulties with compliance;
- unequal rules for drivers and operators in domestic and international carriage of passengers;
- increased stress and fatigue of drivers having difficulties with meeting passengers' needs while complying with the rules.

Increased stress and fatigue as well as non-compliance with the rules may jeopardize road safety.

Further, the evaluation revealed that the main root causes of these difficulties are unsuitable rules, which do not adequately reflect operational specificities of the road passenger transport sector.

Indeed, the bus and coach sector, which plays a vital role for the tourism industry, is dependent on holiday

schedules and is organised very differently from freight transport activities and from regular passenger services. The operational specificity of the coach tourism sector arises from its high seasonality, involving tours of different lengths, working also during night-time and on weekends, dealing with passengers and their demands. Consequently, it involves specific needs in terms of driving times and rest periods for the professional coach drivers. For instance, bus and coach tourism drivers spend much less time driving than truck or regular bus drivers as the work requires mostly short periods of driving interrupted by several breaks when tourists take part in holiday activities. On the other hand, the work requires more flexibility in arranging breaks and rest periods to address the needs of passengers. This is why the bus and coach sector in the Union (with ca. 300.000 companies, majority of them small businesses) has always advocated for recognising the inherent differences between the freight and road passenger transport services and for adapting the EU legal framework to the particular situation of bus and coach drivers in the tourism segment.

The stakeholder consultation carried out for the revision of the social legislation in road transport (Mobility Package I) confirmed that the driving and resting time limits set out in Regulation (EC) No 561/2006 are relevant for ensuring safe working conditions, fair competition and improving road safety. However, the lacking flexibility in arranging the work and rest periods of bus and coach drivers is the major cause of non-compliance (59% of 1234 respondents). These rules cause stress and fatigue for drivers who have difficulties to comply with inflexible requirements on breaks and rest periods and in the same time adapt to the passengers' needs. Operators have to bear extra costs linked with the need to arrange for replacement drivers for short shuttle services for passengers in resort areas, while the main driver need to start their rest periods. The rules and the targeted exceptions are also a source of distortion of competition between international and domestic occasional passenger transport operators, where international operators may benefit from certain flexibilities in arranging weekly rests for their drivers while domestic ones may not. The need for better-adapted rules for bus and coach sector was expressed by 85% of 1143 respondents from both side of the industry.

In addition to those identified regulatory problems, new problems have emerged linked to the outbreak of COVID-19 pandemic. The bus and coach sector was particularly severely hit by the pandemic. Travel restrictions, plummeting demand for bus and coach services have already brought bankruptcies of around 5-10% of the bus and coach operators. It is estimated that the losses of the sector in Europe would reach more than 80% of their annual revenue in 2020. The impact assessment will address these additional problems in the light of possible structural changes of the sector as the consequence of the COVID-crisis.

#### **Basis for EU intervention (legal basis and subsidiarity check)**

The initiative is based on Article 91 of the Treaty of the Functioning of the European Union (TFEU). The objectives of this Regulation to improve road safety and working conditions for bus and coach drivers through the harmonisation of the rules on driving times, breaks and rest periods 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.

## **B. Objectives and Policy options**

The initiative aims at ensuring an adequate working and business environment for the bus and coach sector, helping the sector to serve passengers efficiently and to contribute to making the European mobility system more efficient, safer, resilient and greener. It should facilitate the recovery of bus and coach operators, majority of which are SMEs and micro companies and are particularly affected by the COVID-19 pandemic.

The objectives of this initiative are:

- (1) to improve working conditions of drivers, including the aspect of stress and fatigue of drivers, in the bus and coach sector;
- (2) to increase road safety which is directly linked with the stress and fatigue of drivers and with better compliance with the rules;
- (3) to ensure a level playing field among international and domestic operators in the bus and coach sector;
- (4) to improve efficiency and quality of passenger transport operations.

To meet the objectives of the initiative, the following policy options have been preliminary identified:

- 1) **No change to the current rules** – the baseline scenario assessing the situation following the adoption of the Mobility Package I and analysing what would happen in the sector if no separate rules were adopted;
- 2) **Weekly rest arrangements** - derogation from the current rules to allow for a restricted postponement of weekly rest period for bus and coach drivers involved in international and domestic occasional carriage of passengers
- 3) **Breaks and daily rest arrangements** - derogation from the current rules to allow for flexible distribution of breaks in daily driving times and arrangements of taking daily rest for bus and coach drivers involved in international and domestic tours;
- 4) **Breaks, daily rest and weekly rest arrangements** - derogation from the current rules to allow for flexible distribution of breaks in daily driving times and adjustable arrangements of taking daily and weekly rest

periods for bus and coach drivers involved in international and domestic occasional carriage of passengers.

The first policy option is the baseline scenario, which is to maintain the existing uniform rules on driving and rest times applicable to goods and passengers transport by road. The impact assessment will analyse the extent to which compliance with the current rules would evolve, as well as whether and how they will affect bus and coach drivers and the effectiveness and quality of passenger transport operations.

Policy options 2-4 would entail specific rules for this group of drivers, derogating from the general rules set out in Regulation (EC) No 561/2006 in terms of arranging the breaks and rest periods without, however, changing the limits for driving and rest times. The specific measures for these separate rules will be defined during the impact assessment process. These four policy options will require also an analysis of potential impacts on the use and functionalities of tachograph (recording equipment) to record and control drivers' activities (in accordance with Regulation (EU) No 165/2014).

This preliminary list of policy options are likely to be further refined during the impact assessment work and in function of the results of stakeholder consultations. They may include non-legislative measures such as guidelines or recommendations for operators, drivers and control authorities. The impact assessment will also explicitly assess the combination of various policy options.

All these options will be analysed through the prism of the primary objective of ensuring the highest standards for social and working conditions for bus and coach tourism drivers and for enhancing road safety. The analyses will also take into account the impact of the COVID-19 pandemic on the economic standing of bus and coach operators, on the changes in customer behaviour and on the need for modernisation of business models.

## C. Preliminary Assessment of Expected Impacts

### Likely economic impacts

The key objective of the social legalisation in road transport and of this initiative is to guarantee safe and healthy working conditions for drivers. This is linked with stress and fatigue of drivers and consequently with safety of passengers and all road users. Clear rules that fit the specificities of working in the sector are easier to comply with and to enforce and are clearly in the interest of the operators.

Without prejudging the analysis to be performed, in the baseline scenario, current problems of compliance caused by inadequate rules would persist. Drivers and operators would continue struggling with adhering to the rules and satisfying demands of passengers in the same time. This would come on top of problems with a daily cash resulting from COVID-19 pandemic.

Under policy options 2-4, drivers would gain more flexibility in arranging their work and rest periods according to their needs as well as the needs of their passengers. The efficiency of transport operations and compliance level would likely increase. The domestic tour operators involved in occasional carriage of passengers would benefit from the same rules as the operators in international carriage of passengers. These options would allow to schedule drivers' shifts based on service demand level, reducing in the same time downtime of drivers and giving them greater earning opportunity. It would also allow drivers to take the accumulated rest time at home. Operators would be able to reduce their operational costs related to the need of ensuring additional drivers or renting local coaches for local short shuttle operations. The rules which are better adapted and easier to comply with would also help the sector's recovery from COVID-19 effects. However, these benefits could be outweighed by a potential increase in accumulated fatigue of drivers leading to road safety risks. The analysis of policy options should make clear that flexibility offered to occasional passenger would not increase negative effects on road safety. These options may also entail challenges in enforcement. Therefore, the analysis should include a thorough enforceability assessment.

### Likely social impacts

In all policy options, drivers would benefit from clear rules, well adapted to the specificities of the passenger transport operations by bus and coach. This would likely improve working conditions by helping drivers to cope with passengers' and own needs as well as with traffic circumstances. It would help to avoid stressful and risky situations (including risks for health and safety) and lead to improvement of job satisfaction as well as clients' satisfaction. The framework of the profession would improve, which could attract new people (young people, women) to work in the sector. The unlocked growth of the sector would have positive impacts on employment. The risk of accidents would decrease, and there would be gains in general public health and safety for drivers, passengers as well as other road users.

### Likely environmental impacts

A more efficient organisation of transport operations would likely have a positive environmental impact by reducing extra journeys of substitute/replacement drivers and/or additional vehicles. In the longer term, thanks to the unlocked growth potential of the sector, improved offer of these services and better societal awareness of environmental issues, this initiative could contribute to a reduction of CO2 emissions, air pollution and accidents,

<p>as bus and coach transport has a relatively low level of CO2 emissions per passenger-kilometres, compared to the use of private cars. However, there is a possibility that improved attractiveness of bus and coach services may result in shifting some passengers from rail transport, which has even lower levels of CO2 emissions.</p>
<p><b>Likely impacts on fundamental rights</b></p>
<p>This initiative is expected to have a positive impact on fundamental rights, especially in terms of improved working conditions of the transport workers in the bus and coach sector. It would contribute to an equal treatment and opportunities of working in the sector as well as of using its services.</p>
<p><b>Likely impacts on simplification and/or administrative burden</b></p>
<p>The modernisation of the current rules to adapt them to the specificities of the bus and coach sector would simplify the planning and organisation of the transport operations and would ensure a better compliance with the rules in force by the drivers and transport operators / undertakings. Clearer and well-adapted rules would increase the level of compliance and would render controls of compliance easier and more efficient, which would subsequently lead to reducing administrative burdens of Member States linked with control activities.</p>
<p><b>D. Evidence Base, Data collection and Better Regulation Instruments</b></p>
<p><b>Impact assessment</b></p>
<p>This initiative concerns incremental analysis. It aims to add data and analysis of specific characteristics of the passenger segment of the road transport market while keeping the original analytical framework. The data collection and analysis will be limited to the specificities of bus and coach sector and will provide a frame for comparison with road freight sector. Therefore, first the analysis has to establish whether specific rules are necessary for passenger transport. Only then, the analysis should assess different impacts of potential specific rules for bus and coach sector. An external support study will be launched by the end of March 2021 to collect the necessary data and perform analysis to inform the Commission's decision. The stakeholder consultations are envisaged to take place between March and June 2021. Final results of the support study are expected in January 2022. Subsequently, the Commission impact assessment and legislative proposal could be ready for the adoption in the first quarter of 2022.</p>
<p><b>Evidence base and data collection</b></p>
<p>The analysis will build on the findings of the ex-post evaluation of the social legislation in road transport carried out in 2015-2016 (<a href="#">Ex-post evaluation</a>) supported by the external study (<a href="#">Final Report - Ex-post evaluation of social legislation in road transport and its enforcement</a>). A large amount of information has been gathered during the back-to-back stakeholders consultation process, including the Open Public Consultation (<a href="#">Public consultation</a>) and a number of targeted consultations (e.g. <a href="#">Summary of the SME panel survey on the enhancement of the social legislation in road transport</a>). Prior to defining policy options in detail, there will be a thorough assessment of the conclusions of the ex-post evaluation and the current situation. To this end, additional evidence will need to be gathered concerning the specific needs of the bus and coach sector as regards the organisation of working and resting time of drivers and planning journey schedules in such a way that they satisfy the needs of passengers and do not affect negatively the working conditions of drivers. Specific data on the number of companies, transport operations (by type of operation), drivers involved, and relevant costs will also have to be collected. This additional information will be collected through targeted stakeholder consultations and consultation of national registers of road transport undertakings.</p>
<p><b>Consultation of citizens and stakeholders</b></p>
<p>The aim of the stakeholder consultation is to verify, supplement and enhance the existing evidence base. A 12-week open public consultation will be launched. The consultation aims to obtain the stakeholders' views on the problems to be addressed, the issue of subsidiarity, potential policy options and their expected impacts.</p> <p>Apart from the open public consultation, targeted consultations will be carried out. The tools used for these consultations will include surveys, thematic focus group meetings, interviews addressed in particular to drivers and operators in the bus and coach sector, tour operators, road transport authorities in the Member States, enforcement organisations, social partners (workers' organisations and employers' organisations) and tachograph manufacturers. These consultation activities will be carried out in the course of the impact assessment support study. They will be complemented by the discussions in the framework of the Road Transport Committee meetings and the Sectorial Social Dialogue Committee meetings.</p>
<p><b>Will an Implementation plan be established?</b></p>
<p>This initiative concerns the possible targeted revision of Regulation (EC) 561/2006. As the Regulation is directly applicable and does not need to be transposed, there will be no need for an implementation plan.</p>