COMMISSION OF THE EUROPEAN COMMUNITIES

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REPORT FROM THE COMMISSION

on the application of Council Regulation (EEC) No 2454/92 of 23 July 1992 laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State

CONTENTS

1. INTRODUCTION

Under Article 12 of Council Regulation (EEC) No 2454/92 laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State,[1] the Commission must draw up a report on the application of the Regulation and, "in particular, on the impact of cabotage transport operations on national transport markets and on whether consideration should be given to extending the scope of the Regulation to other regular passenger transport services."

In its judgment given on 1 June 1994, the Court of Justice[2] annulled the above mentioned Regulation. However, so as not to call into question the degree of liberalisation which that Regulation sought to achieve, the Court decided that the provisions of the annulled Regulation should remain effective until the Council had adopted new legislation in the matter.

To comply with the judgment in question, the Commission put forward a new proposal for a Regulation on 12 January 1996. This became Council Regulation (EC) No 12/98 of 11 December 1997 laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State[3]. Article 13(1) of that Regulation lays down that "the Commission shall report to the European Parliament and the Council before 30 June 1998 on the results of the application of Regulation (EEC) No 2454/92 and the operation of regular services in the Member States".

This report relates not only to the application of Regulation No 2454/92 during the period 1993-1996 but also to the national provisions applied by the Member States for regulating and authorising the regular bus and coach services referred to in Article 3(3) of Regulation 2454/92 and the last part of Article 13(1) of Regulation 12/98.

2. APPLICATION OF REGULATION (EEC) NO 2454/92 DURING THE PERIOD 1993-1996

2.1 THE SERVICES UNDER CONSIDERATION

In the context of inland transport, the term "cabotage" refers to the operation of transport services within one Member State by carriers established in another Member State. It is a relatively recent phenomenon: although it is expressly mentioned in Article 75(1)(b) of the EC Treaty, specific provisions on cabotage were adopted by the Council only in 1992, in Regulation 2454/92, and were applicable from 1 January 1993.

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1 OJ L 251, 29.8.1992, p. 1.

2 Case C-388/92.

3 OJ L 4, 8.1.1998, p. 10.

Under that Regulation, cabotage bus and coach services were to be phased in as follows:

1. Occasional services

- until 31 December 1995, permission to operate cabotage transport operations in the form of non-regular services was restricted to "closed-door tours", which were defined as services whereby the same vehicle is used to carry the same group of passengers along the entire route;

- from 1 January 1996, cabotage transport operations would be authorised for all non-regular services.

2. Special regular services

Cabotage in the form of special regular services (regular services which provide for the carriage of specified categories of passengers to the exclusion of other passengers) could be operated from the date on which Regulation 2454/92 entered into force, subject to the following restrictions:

(a) restrictions on the nature of the services, since the only special regular services provided for were those involving the carriage of workers between home and work and the carriage of school pupils and students to and from their educational establishment;

(b) geographical restrictions, since the authorisation concerned only services carried out in the frontier zone of a Member State - a zone extending to a depth of 25 km as the crow flies from the frontier common to two Member States - by carriers with a registered office or other establishment in the frontier zone of an adjacent Member State, provided that:

- the points of departure and destination of the transport services were situated in the frontier zone of the host Member State, and

- the total distance involved did not exceed 50 km as the crow flies in each direction.

3. Regular services

Regulation 2454/92, which was annulled by the Court, excluded from its scope cabotage in the form of regular services (services which provide for the carriage of passengers at specified intervals along specified routes, passengers being taken up and set down at predetermined stopping points. Regular services are open to all - subject, where appropriate, to compulsory reservation.)

2.2 DATA GIVEN IN THE REPORT

- This report gives information only on cabotage in respect of occasional services and special regular services within the above mentioned limits. It should be noted that, in 1993-95, the number of occasional services which were liberalised, and consequently relevant to this report, was very limited: it was, indeed, restricted to "closed-door tours". For 1996, all occasional services are covered.

- This report concerns, first of all, the Member States of the Community in 1993. Secondly, following the entry into force of the Agreement on the European Economic Area, the bus cabotage regime was extended, with effect from 1 July 1994, to Austria, Finland, Iceland, Norway and Sweden, by Decision of the EEA Joint Committee No 7/94 of 21 March 1994[4]. By Decision of the same Committee No 1/95 of 10 March 1995,[5] the regime was extended to Liechtenstein with effect from 1 May 1995.

- Finally, it should be noted that, following the accession of Austria, Finland and Sweden to the European Community on 1 January 1995, no substantial change has taken place in the application of the cabotage regime within the bus and coach transport sector by comparison with the situation created by the EEA Agreement.

- Article 7(1) of Regulation 2454/92 lays down that "at the end of each quarter and within three months, (...), the competent authority or agency in each Member State shall communicate to the Commission the data concerning the cabotage transport operations carried out during that quarter by resident carriers. The communication shall be effected by means of a table, a specimen of which is set out in Annex III". The summary table in question was structured so that information on the number of passengers and of passengers-km would be broken down according to the type of services (special regular, and non-regular or occasional) and by the Member State in which the cabotage operation took place. The statistics in question are initially sent to the competent authorities of the Member States by the bus companies which carry out cabotage operations in other Member States, pursuant to Article 6(6) of Regulation 2454/92. These authorities then process the data and fill in the quarterly tables. Consequently, as has been pointed out by a number of national governments, the competent authorities of the Member States have no means of checking whether the information given on the journey forms sent to them is correct, or of ensuring that all the journey forms used by the bus companies have actually been sent in. Finally, Commission staff have drawn up the tables for the Community as a whole. It should be noted that the data for Greece are unavailable, but it is highly likely that very few, if any, cabotage operations were carried out by Greek operators in the other Member States of the Community. Accordingly, the figure for Greece has been regarded as 0%.

2.3 CABOTAGE FOR OCCASIONAL SERVICES AND ITS IMPACT ON THE NATIONAL MARKETS

2.3.1. The Member States of the Community: it should be noted that the total number of passengers carried in the Community in the context of cabotage operations has doubled in four years; it rose from 35 329 passengers in 1993 to 60,255 in 1994, 84,247 in 1995 and 74,586 in 1996[6]. The number of

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4 OJ L 160, 28.6.1994, p. 1.

5 OJ L 86, 20.4.1995, p. 58.

6 The 1996 figures for Luxembourg are not available.

passengers/kilometre, on the other hand, shows a different trend: 129,742 p/km in 1993; 65,778 p/km in 1994; 40,505 p/km in 1995 and 45,463 p/km in 1996. The high figure for 1993 is due to an unusually high volume of cabotage operations carried out by Spanish operators in France (accounting for 89% of all cabotage operations in the Community). This exceptional situation did not recur.

- The operators who most benefited from the opportunities presented by liberalisation were, undoubtedly, *Belgian* operators, who carried more than half the Community total of passengers during the period under consideration (1993-1996). Belgian carriers carried out operations notably in the countries bordering on Belgium (France, Germany and the Netherlands). In second place are *French* operators, who have become active on the national markets of other Member States, especially neighbouring countries such as Belgium and Germany.

- The operators who have least benefited from liberalisation are the *Finns, Italians, Swedes and* (probably) *Greeks*. They carried out no cabotage operations in other Member States. On average, 2% annually of all cabotage operations were carried out by *Danish, Irish, Portuguese and UK* carriers.

- The Member State in which the greatest number of cabotage operations were carried out by carriers from other Member States is *France*, with an average annual rate of 40%, followed by *the Netherlands* and *Belgium*, with an annual average rate of 22% of all cabotage operations.

- No cabotage operations took place in *Denmark, Finland and Greece.* Furthermore, the *Irish and Italian* national markets were hardly targeted by foreign operators.

2.3.2 As regards the Member States of the European Economic Area, carriers established in Iceland, Liechtenstein and Norway did not carry out any cabotage operations in the form of occasional services or special regular services in other Member States of the EEA or the Community between 1 July 1994 and 31 December 1996. Nor did Community operators carry out any cabotage operations in those three countries. Consequently, market penetration in and by those countries is zero.

2.3.3 Cabotage has had a negligible impact on the national market of each Member State. In France, for example, where there was the highest number of cabotage operations carried out by non-resident carriers, the total number of p/km carried in 1993 was 42 000 millions p/km[7] [8] whereas the total number of p/km carried in 1993

7 The statistics for passengers-km carried within the national markets are for all bus and coach services, i.e. regular, urban, suburban and occasional services. The cabotage statistics, on the other hand, relate only to occasional services. Nevertheless, in the case of France, there are statistics supplied by the Ministry of Transport on the total number of passengers and passengers-km for occasional services (but not, therefore, for regular and urban services). This enables a much more exact comparison to be made in the occasional services sector. In 1993, the occasional domestic services carried out by operators established in France amounted to 19 700 million/pkm; in 1994 the figure was 19 767 million/pkm and in 1995 it was 18 900 million/pkm. The percentage corresponding to occasional services carried out by non-resident carriers (in pkm) was 0.60% in 1993, 0.23% in 1994 and 0.08% in 1995.

in the course of cabotage operations was 120 millions pkm, i.e. 0.286% of the national coach and bus market. In absolute terms, the 18 880 passengers carried by cabotage operators in France in 1993 would fit into 377 buses with 50 seats each. Furthermore, cabotage operations in France declined considerably in importance relative to the national market as a whole in 1994 (0.108%) and 1995 (0.039%). Although the 1996 figures are not available, estimates suggest they will be similar to those for 1995.

	National bus transport market in millions pkm average			Cabotage in millions pkm and % of national market					
MS	1993	1994	1995	1993	%	1994	%	1995	%
D	60.000	69.400	68.600	0,200	0,000%	1,252	0,002%	4,4428	0,006%
F	42.000	42.600	40.500	120,000	0.286%	46,149	0,108%	15,829	0,039%
I	81.500	79.300	79.000	0,000	0.000%	0,000	0,000%	0	0,000%
NL	13.700	13.900	14.300	2,425	0,018%	4,430	0,032%	4,849	0,034%
B	11.600	12.000	12.500	5,570	0,048%	9,800	0,082%	4,944	0,040%
L	500	500	500	0,000	0.000%	0,045	0,009%	0,012	0,002%
UK	43.000	43.000	43.000	0,552	0,001%	0,367	0,000%	0,106	0,000%
IRL	2.900	3.000	3.000	0,000	0.000%	0,000	0,000%	0	0,000%
DK	9.200	9.500	9.900	0,000	0.000%	0,000	0,000%	0	0,000%
EL	5.200	5.600	5.600	0,000	0,000%	0,000	0,000%	0	0,000%
E	37.000	38.100	40.200	0,301	0,000%	3,193	0,008%	2,292	0,006%
P	11.800	12.600	13.100	0,111	0.000%	0,338	0,003%	7,846	0,060%
FIN	8.000	8.000	8.000		0,000%		0,000%		0,000%
S	9.300	9.200	9.200		0.000%		0.000%		0,000%
A	13.700	13.700	13.700		0,000%		0.000%	0,053	0,000%

Even in Portugal, which has the largest proportion of cabotage operations relative to its resident carrier market - 0.06% in 1995 - this proportion is completely insignificant.

2.4 CABOTAGE FOR SPECIAL REGULAR SERVICES AND ITS IMPACT ON THE NATIONAL MARKETS

There are hardly any cabotage operations providing special regular services. Only the Irish bus companies have actually made use of this possibility: from the third quarter of 1995, Irish companies have been operating special regular services in the United Kingdom, probably in Northern Ireland. To be precise, these operations involved 3 229 passengers (103 640 p/km) in 1995 and 9 206 passengers (692 406

8 Source: ECTM and "EU Transport in figures; statistical pocketbook", 1999, EUROSTAT/DG VII, European Commission .

p/km) in 1996. The trend in 1997 is for these numbers to rise considerably: during the first three quarters of 1997, 12 436 passengers (990 654 p/km) were carried in the United Kingdom by Irish operators.

Finally, it should be noted that, although this report does not cover 1997, special regular services were operated by Dutch companies in Germany during the first quarter of that year: they carried 6 890 passengers (585 650 p/km).

This low level of market penetration by non-resident carriers may be due to the fact that special regular services cabotage is very limited in geographical terms: it is authorised only within the 25 km border zone.

Council Regulation No 12/98 does away with the present geographical restrictions. Consequently, once the new regulation enters into force, an increase in special regular services cabotage can be expected.

3. THE NATIONAL PROVISIONS APPLIED BY THE MEMBER STATES FOR REGULATING AND AUTHORISING REGULAR BUS AND COACH SERVICES: OVERALL ANALYSIS

As mentioned at the beginning of this report, Article 13 of Council Regulation (EC) No 12/98 of 11 December 1997 laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State lays down that "the Commission shall report to the European Parliament and the Council before 30 June 1998 on the results of the application of Regulation (EEC) No 2454/92 and the operation of regular services in the Member States". The purpose of this report is to comply with the provisions of Council Regulation (EEC) No 2454/92, under which the Commission was to report to the Council on the application of the Regulation and, in particular, "on the impact of cabotage transport operations on national transport markets and on whether consideration should be given to extending the scope of the Regulation to other regular passenger transport services". Accordingly, an exhaustive study was carried out in the various Member States to identify the existing procedures and the characteristics of the operation of regular bus and coach services in the Member States. On the basis of this study, and after consulting the competent authorities and professional associations concerned, this report has been drawn up to provide an overall picture of the arrangements in place in the different Member States for organising regular bus and coach services.

This chapter gives an overall description of the existing systems. It highlights the differences or similarities between them and the difficulties of making comparisons between the different countries, whether in terms of the structure of the market or the procedures for access to the market, the financial support given to such services or the conditions under which they are operated.

In addition, following the study referred to above, a Commission working document has been drawn up giving a detailed description of the situation country by country and providing the most precise data possible on the procedures used in each Member State.

3.1 Structure of the market

It is not always easy to compare the structure of the market in regular bus and coach services as between the different Member States, since some countries draw no distinction between the fleet used for regular services and the one used for occasional services. However, the studies which have been carried out show that Germany is the country with most buses and coaches (some 90 000), followed by the United Kingdom, France and Italy, each of which has a fleet of more than 70 000 buses.

The following table shows the number of buses and coaches in each country

Road — **Buses and Coaches** — 3.3

thousands

	B	DK	D(-W)	D-E	EL	E	F	IRL	I	L	NL	A	P	FIN	S	UK	EU15	index 1970=100
1970	16,2	5,0	47,3	16,7	10,5	30,7	41,0	2,0	32,9	0,6	9,5	6,8	5,9	8,1	14,3	79,2	327	100
1980	19,6	7,4	70,5	25,3	18,0	42,6	65,0	2,7	58,1	0,6	11,2	9,0	6,5	9,0	12,8	78,3	439	134
1990	15,6	8,1	70,4	30,0	21,4	45,8	75,0	4,0	77,7	0,8	12,1	9,4	12,1	9,3	14,6	73,0	479	147
1991	15,4	10,0	89,6	D	22,1	46,6	77,0	4,4	76,6	0,8	12,4	9,3	12,3	8,9	14,5	72,0	474	145
1992	15,0	11,3	90,9	D	22,7	47,2	76,0	4,6	78,2	0,8	12,3	9,4	12,8	8,7	14,2	72,0	476	146
1993	15,0	13,0	88,4	D	23,2	47,0	77,7	6,0	77,0	0,8	12,2	9,5	13,6	8,3	14,1	73,0	479	146
1994	14,9	13,6	88,5	D	23,5	47,0	79,3	6,2	78,0	0,9	11,0	9,6	14,3	8,1	14,3	75,0	484	148
1995	14,6	13,5	86,3	D	24,6	47,4	80,0	6,4	77,2	0,8	12,0	9,8	15,0	8,1	14,6	75,0	485	148
1996	14,7	14,0	90,0	D	25,1	48,4	82,0	6,6	78,0	0,9	*12,0*	9,7	*15,6*	8,2	14,9	*75,0*	495	151

Source : Eurostat, ECMT, national statistics

Estimates in italic D: included in D(-W)

(9)

As regards the way in which the market is shared between public and private companies, there are also major differences between the Member States. The largest percentage of buses in the private sector is found in the United Kingdom, France, Finland and - for interurban transport - Spain, while the largest percentages of publicly-owned vehicles are found in the Netherlands, Austria and Belgium. In any case, these proportions do not necessarily reflect the way in which operators gain access to the market. In cases where the public authority has the power of decision on setting up regular services, this authority does not necessarily own all the buses used for the services it sets up: they are often subcontracted out to private companies under various types of contract or franchise.

It is also difficult to know exactly how many vehicles are used for urban and how many for non-urban services: it seems that most major conurbations have public companies which are responsible for organising urban transport, and it is these companies which account for most of the publicly-owned buses.

With regard to the market trends in terms of the number of passengers carried, it appears that the use of private cars is still growing: buses and coaches are in second place, just ahead of rail and air travel. More people still travel by bus rather than train, and this no doubt explains the persistence of measures to protect the railways in most Member States.

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9 Source: ECTM and "EU Transport in figures; statistical pocketbook", 1999, EUROSTAT/DG VII, European Commission

The following table summarises the situation:

Main Modes of Transport

Performance by mode

	Passenger cars	Buses & Coaches	Tram + Metro	Railway	Air (1)	Total
1970	1 582	263	38	216	43	2 142
1980	2 349	338	40	253	96	3 075
1990	3 317	355	48	274	204	4 198
1994	3 609	357	41	269	254	4 530
1995	3 689	366	41	270	274	4 640
1996	3 748	366	42	276	290	4 722
1990-96	**+ 13 %**	**+ 3 %**	**- 13 %**	**+ 1 %**	**+ 42 %**	**+ 12 %**

Average annual change
% per year

	Passenger cars	Buses & Coaches	Tram + Metro	Railway	Air	Total
1970-80	+4.0	+2.5	+0.4	+1.6	+8.4	+3.7
1980-90	+3.5	+0.5	+1.8	+0.8	+7.8	+3.2
1990-96	+2.1	+0.5	-2.2	+0.1	+6.1	+2.0
1996	+1.6	+0.1	+2.5	+2.0	+6.0	+1.8
1997				+2.5	+10.8	

Modal split
%

	Passenger cars	Buses & Coaches	Tram + Metro	Railway	Air
1970	73.8	12.3	1.8	10.1	2.0
1980	76.4	11.0	1.3	8.2	3.1
1990	79.0	8.5	1.1	6.5	4.9
1994	79.7	7.9	0.9	5.9	5.6
1995	79.5	7.9	0.9	5.8	5.9
1996	79.4	7.8	0.9	5.8	6.1

([10])

[10] Source: ECMT and "EU Transport in figures; statistical pocketbook, 1999, EUROSTAT/DG VII, European Commission

3.2 Access to the market in regular services

It should be noted, in the first place, that whatever the arrangements for access to the market in any given country, whether liberalised or monopolistic, all carriers must meet the conditions for admission to the occupation and must thus hold a licence.

Definition:[11] *a licence is a document conferring on its holder the right to operate passenger services. It is awarded on the basis of qualifications (good reputation, professional profile, financial standing) which provide evidence of the operator's ability to do the job. Consequently, the licence concerns admission to the occupation.*

There are basically two methods by which operators gain access to the market: the first is to allow operators to take the initiative in setting up a service, in which case the authorities can either regulate it or let the market regulate itself; the second is to give the authorities the sole power of initiative in setting up the service, in which case there may be different ways of doing so. These two models are not rigidly exclusive, and within any one Member State there may be various combinations of the two systems.

- When the initiative lies with the market

Under the most liberal system, the initiative for setting up regular services lies with the operators, who take their own decisions in the light of the needs they identify.

In a first hypothetical case, the system operates according to the principle of free competition. This allows any carrier to operate regular services provided he meets the conditions for admission to the occupation. At present, the most liberal arrangements are undoubtedly those introduced in the United Kingdom, where the 1985 *Transport Act* completely liberalised interurban services. Thus an operator wishing to introduce a regular service must simply hold a licence (admission to the occupation) and register the details of the service with the Traffic Commissioner responsible. This does not apply in the London area, where operators must obtain a "London Local Road Service Licence".

In a second hypothetical case, the responsible authorities wish to retain a certain degree of control and introduce a system of prior authorisation.

Definition:[12] *an authorisation confers the exclusive or non-exclusive right to operate a specific service for which the operator has applied to the competent authorities. In the case of an exclusive authorisation, other operators may not seek to operate the same service under the same conditions. The authorisation enables the authorities to check whether the applicant fulfils all the legal and administrative conditions (objective and non-discriminatory).*

The danger of such a model is the emergence of over-protection against competition, which will neutralise the disciplinary effects of market forces. Within this model one

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[11] Source: NEA study entitled "Examination of Community Law relating to the Public Service Obligations and Contracts in the field of inland passenger transport", June 1998

[12] The NEA study already cited

must distinguish between those cases where private companies dominate the market and those where it is dominated by public companies (as is the case in the Netherlands).

- When the initiative lies with the responsible authorities

In the converse situation, it is up to the administrative authority to take all decisions on setting up a regular service. Under this system, a public authority has the monopoly on the organisation of regular services.

One approach of doing things would then be for the authority to take all responsibility for introducing services, either using its own means or via a public company set up for this purpose. One example of such an arrangement is Belgium, which has a completely integrated public transport system: the three regional authorities (Brussels Region, Flanders and Wallonia), which are responsible for public transport on their territory, delegate to three major public companies the responsibility for organising transport within the three administrative regions. The regions then own most of the fleet. However, some operations are contracted out to private operators: this is often the case with special regular services such as school bus services. Greece also operates with the principle of exclusive rights granted to public companies which are responsible for organising regular services within their geographical territory.

Another approach is to delegate the implementation of services for a specified period (concession) and in accordance with a fair and transparent procedure (suitable selection procedure such as direct contracting or invitations to tender). Under this approach one finds various systems of concessions, franchises, negotiated contracts and public service contracts. In most cases the service can be opened up to competition by publishing invitations to tender.

Definition:[13] *a concession is an agreement, between an authority and an operator of its choice, under which the authority delegates the provision of a public service, for which it is responsible, to that operator. The operator agrees to provide the service in exchange for an exclusive or non-exclusive right to operate the service and against payment. The concession may take different legal forms but it is always an agreement (however basic) which is necessarily accepted by the operator. A concession may also be called a management contract. In that case it is an agreement between two bodies under which one of the bodies transfers to the other the responsibility for managing its property. The management contract may be regarded as broader in scope, since it is not restricted to an agreement between an authority and a private operator: it is, however, more restrictive since it implies that the property is owned by the transferring authority. A concession may be awarded as a result of an invitation to tender.*

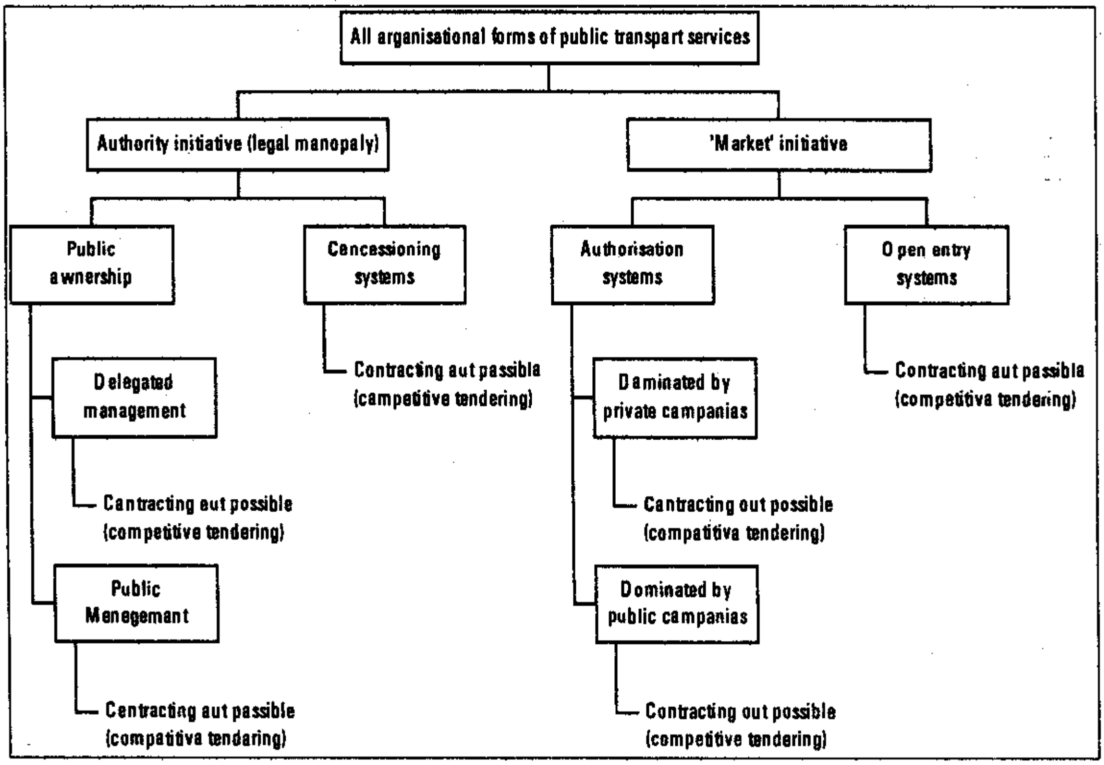
It is not uncommon to find different types of system within a single country, varying according to the nature of the services in question. One also frequently finds that a system of authorisations and a system of concessions exist side by side, the one relating to interurban services and the other to urban services. The latter are often set up at the initiative of the responsible authorities. They may then be implemented by the responsible authority, which owns the fleet, or by a subcontractor to whom the authority has awarded a concession.

[13] The NEA study already cited

Suburban or regional services are often operated by private companies, either under a concession or under an authorisation.

There are also systems in which the market is open (as regards the market initiative and authorisation system) but there is a legal obligation on the responsible authorities in the event of market failure. It is then up to the responsible authority to organise the services (often by means of concessions which may be granted as a result of an invitation to tender, as is the case in Germany).

The following table presents an overall view of the possible systems[14]



it should be noted that all the systems presented in this diagram can use competitive tendering to award contracts for all or some operations. This clearly shows that there is room for competition even in a system where the initiative for providing transport services lies with the public authorities.

Comment: the classification presented in this table is supposed to represent a number of "pure models" which can be compared with real models. No real system matches 100% any of the models presented: intermediate forms are possible and do indeed exist. Most countries or regions combine several of these models.

[14] Table taken from the NEA study already cited

The following table briefly summarises the forms of market access found in the Member States.

Market access system		
Country	**Market access**	**Special features**
A	Authorisation; exclusive right for the operator; Responsible authority: State Governor or Ministry of Science and Transport	Authorisation lasting 15 years, renewable
B	Exclusive rights awarded to a regional public body: some services sub-contracted to private operators	Management agreements between regional government and public company lasting 4-6 years. Subcontracting contract with private companies (open-ended) No competition with the railways
D	Authorisation, concession (by invitation to tender)	Concessions lasting 8 years with exclusive rights - no competition with the railways
DK	Authorisation for long-distance concession (via invitation to tender) for regional services	Contract lasts 3-6 years
EL	Monopolies (KTEL) with exclusive right, 1 KTEL per province	
E	Concession by invitation to tender (exclusive right) - interurban services Municipal companies, negotiated contracts, invitations to tender - urban services	
F	Contract negotiated via invitation to tender	Open-ended contract - no tacit renewal - no competition with the railways
IRL	Authorisation for private operators	
I	Concessions (invitation to tender)	9 years - no competition with the railways
L	Monopoly for public operators - franchise for private operators	Franchise lasting 10 years - automatically renewed
NL	Public operators - authorisation - public service contract	No competition with the railways - open-ended authorisation
P	Authorisation - concession via invitation to tender - public operators or concessions granted after invitation to tender for urban transport services	Authorisation lasting 10 years, renewable every 5 years
FIN	Authorisation - concession via invitation to tender - management contracts in Helsinki - invitation to tender	
S	Authorisation - concession via invitation to tender	Concession lasting 4-6 years
UK	Concession via invitation to tender in London; Outside London, free competition (roughly 85%) plus other contracts via invitation to tender	

3.3 The financial aspects

There is great diversity in the way regular services are financed.

The highest level of public financing is found in situations where the public authority has the monopoly on the organisation of services and almost complete responsibility for their implementation, including ownership of the fleet. This is the case in Belgium, where an overall subsidy is given for the duration of the management contract. Part of the subsidies may then be passed on to the sub-contractors.

In cases where a public company has an authorisation with exclusive rights, cross-financing is possible. The company then draws on resources from other fields of activity for which it is also responsible (gas, electricity, water distribution ...). Since urban services tend to be the responsibility of the public authority, one naturally finds that urban services are far more heavily subsidised than long-distance services. It is not unusual for 80% of the cost of urban services to be subsidised.

In the case of long-distance services, the price is often one of the conditions laid down for granting the authorisation or concession. For some routes, a maximum price is fixed by the issuing authority but the operator receives no subsidy. However, the competent authority may then decide to keep fares affordable by the users but to compensate the operator for his losses on unprofitable routes, so as to ensure the provision of certain services. This is often the case with rural services carrying few passengers. The operator then receives compensation for his public service obligations.

In some countries, subsidies are granted only in the public sector. This is the case in Germany, Greece, Ireland and Portugal. Even in this situation, however, private operators may act as subcontractors and thus indirectly benefit from the subsidies granted to the responsible public authorities. This is not the case in Ireland, where there seems to be no mechanism for subsidising private operators.

In most cases, regardless of the nature of the contract or authorisation (authorisation or concession system), there are ways of paying compensation for socially necessary services such as the carriage of people with reduced mobility, elderly people and schoolchildren. Compensation may take different forms: a refund per kilometre (as in Austria for school bus services), or perhaps a refund for some of the tickets in the case of socially necessary transport services. It should be noted that the most frequently subsidised type of services are school bus services. The amount of subsidy may range from 100%, as in Austria, to a simple reduction in the normal fare, as in Germany. It all depends on the level at which the public authorities are responsible, i.e. whether the responsible authority is the town council, the regional authority or a ministry (all of which are possible).

3.4 <u>Operating conditions</u>

Whatever system has been introduced, it is the responsibility of the bus company - whether public or private - to recruit its own personnel and to purchase and maintain the vehicles used. However, the concessions or authorisations may contain certain conditions regarding the type of vehicles and their capacity or maximum age.

Where bus stations are concerned, several different systems are found in the various Member States. Bus stations usually belong to the public authorities or to the public companies to whom these authorities delegate the services. The bus stations may be managed by town councils or local authorities, or even by carriers' associations. The bus stations may be made available to the bus companies free of charge or against payment of a fee. There are very few problems, and bus stations are made available fairly easily to all operators. In Ireland, however, bus stations are apparently reserved for the exclusive use of public companies providing coach services. In some cases the bus stations belong to private companies and are made available to operators in return for a fee. It is not unusual to find both systems within a single Member State, depending on the type of service concerned (urban, suburban or long distance).

The integration of services appears to be more frequent and better organised where a network is wholly managed by a public company or where the organising authority clearly defines the operator's obligations when granting the concession. It is also easier to integrate services in smaller areas such as towns or conurbations. Integration is less easy in the case of long-distance services: however, small countries such as Luxembourg or the Netherlands have a zone-based system of tickets whereby one single ticket enables the traveller to use different modes of transport throughout the national territory.

4. CONCLUSIONS

- The first conclusion to be drawn is that the impact of cabotage on the national markets of the Member States is marginal and insignificant; operators are concentrating their activities on the national market. Cabotage operations are carried out in particular in the adjacent Member States.

  One of the reasons why non-resident carriers occupy such a small share in the occasional services market in other Member States is that the cabotage is implicitly temporary; when a bus or coach company wants to gain a permanent foothold in another market, the simplest way to do so is to establish itself directly on that market or to take over another company in the Member State concerned.

  As to future prospects, bus and coach cabotage services will probably remain relatively unimportant, in the medium term, by comparison with resident carrier operations. Since 1 January 1996, all occasional services have been liberalised and, once Regulation (EC) 12/98 becomes fully applicable, the vast majority of special regular services will also be deregulated. Consequently, only regular services will be excluded from liberalisation. However, in many Member States, regular services are subject to public service obligations, and this would seem to call for a different approach to that laid down in the cabotage regulation, which applies only to non-resident carriers. In particular, amendments should be made to Regulation 1191/69 on action by Member States concerning the obligations inherent in the concept of a public service in transport by rail, road and inland waterway, so that it applies to resident and non-resident carriers.

- Secondly, where regular services are concerned, the trend in a number of countries is towards greater competition. In addition to the United Kingdom, where bus services have been liberalised since the mid-1980s, other countries have also introduced tendering systems - as in Denmark, France and Spain. Others, such as Finland, Ireland and the Netherlands, are currently introducing legislation to open up the market to competition. A comparative study of the different countries also shows a widespread increase in awareness of the need for greater planning and more systematic organisation of the transport system, especially in urban areas.

Finally, the information sent to the Commission shows that in some countries, such as Finland, Germany, Ireland, Italy and Luxembourg, the number of bus passengers is increasing while in others, such as Belgium, it remains stable and is slightly declining in France, the Netherlands, Portugal and Sweden.

A Commission working paper which will be made available in parallel with this report sets out in detail the procedures specific to each country.

ANNEX: ANNUAL TABLES OF CABOTAGE STATISTICS

Gelegenheitsverkehr / Non-regular service / Service non réguliers

Anzahl der Fahrgäste / number of passengers / nombre de voyageurs

	1993	Cabotage performed in :				Cabotage effectué en :				Kabotagefahrten in :						
		D	F	I	NL	B	L	UK	IRL	DK	GR	E	P	EUR	1993	
	D		0	0	0	0	0	0	0	0	0	0	0	0	0	0%
Reporting	F	0		0	0	1425	0	0	0	0	0	0	0	1425	1425	4%
Member	I	0	0		0	0	0	0	0	0	0	0	0	0	0	0%
State	NL	0	559	0		481	0	142	0	0	0	166	0	1348	1348	4%
	B	258	10446	0	9226		0	41	0	0	0	0	0	19971	19971	57%
Etat	L	973	0	21	0	2214		0	0	0	0	27	39	3274	3274	9%
Membre	UK	0	0	0	0	0	0		0	0	0	0	0	0	0	0%
déclarant	IRL	0	0	0	0	0	0	456		0	0	0	0	456	456	1%
	DK	0	0	0	0	0	0	0	0		0	0	0	0	0	0%
Mitglied-	GR													0	0	0%
Staat der	E	0	7875	0	0	0	8	0	8	0	0		980	8855	8855	25%
Unternehmer	P	0	0	0	0	0	0	0	0	0	0	0		0	0	0%
	total	1231	18880	21	9226	4120	0	639	0	0	0	193	1019	35329	35329	100%

	D	F	I	NL	B	L	UK	IRL	DK	GR	E	P	EUR
1993	1231	18880	21	9226	4120	0	639	0	0	0	193	1019	35329
	3%	53%	0%	26%	12%	0%	2%	0%	0%	0%	1%	3%	100%

Gelegenheitsverkehr / Non-regular service / Service non réguliers

1000 Fahrgäste-km / 1000 passengers-km / 1000 km-voyageurs

	1993	Cabotage performed in :				Cabotage effectué en :				Kabotagefahrten in :						
		D	F	I	NL	B	L	UK	IRL	DK	GR	E	P	EUR	1993	
	D		0	0	0	0	0	0	0	0	0	0	0	0	0	0%
Reporting	F	0		0	0	228	9	0	0	0	0	0	0	228	228	9%
Member	I	0	0		0	0	0	0	0	0	0	0	0	0	0	0%
State	NL	0	530	0		155	0	23	0	0	0	222	0	930	930	1%
	B	239	5155	0	2425		0	27	0	0	0	0	0	7846	7846	6%
Etat	L	0	0	0	0	5194		0	0	0	0	79	1	5274	5274	4%
Membre	UK	0	0	0	0	0	0		9	0	0	0	0	0	0	0%
déclarant	IRL	0	0	0	0	0	0	502		0	0	0	0	502	502	0%
	DK	0	0	0	0	0	0	0	0		0	0	0	0	0	0%
Mitglied-	GR													0	0	0%
Staat der	E	0	114852	0	0	0	0	0	0	0	0		110	114962	114962	89%
Unternehmer	P	0	0	0	0	0	0	0	0	0	0	0		0	0	0%
	total	239	120537	0	2425	5577	0	552	0	0	0	301	111	129742	129742	100%

	D	F	I	NL	B	L	UK	IRL	DK	GR	E	P	EUR
1993	239	120537	0	2425	5577	0	552	0	0	0	301	111	129742
	0%	93%	0%	2%	4%	0%	0%	0%	0%	0%	0%	0%	100%

Non-regular service / Service non réguliers / Gelegenheitsverkehr
number of passengers / nombre de voyageurs / Anzahl der Fahrgäste

	1994	Cabotage performed in :				Cabotage effectué en :					Kabotagefahrten in :								
		D	F	I	NL	B	L	UK	IRL	DK	GR	E	P	FIN	S	A	EUR	1994	
	D		0	0	0	8	0	8	8	0	8	627	0	8	8	8	627	627	1%
Reporting	F	983		8	8	17674	52	0	8	8	8	50	8	8	8	8	18659	18659	31%
Member	I	8	0		0	0	0	0	0	0	0	0	0	8	0	0	8	0	0%
State	NL	598	376	32		978	8	8	8	0	0	94	0	8	8	8	2078	2078	3%
	B	255	17119	22	12796		138	0	8	8	0	0	8	0	8	8	38338	30338	50%
	L	666	112	8	8	2284		0	8	8	8	8	8	0	0	0	2962	2962	5%
Etat	UK	157	447	0	8	0	8		8	8	0	0	8	8	0	8	604	604	1%
Membre	IRL	0	0	8	0	0	0	369		8	8	0	0	0	0	8	369	369	1%
déclarant	DK	8	8	0	0	8	8	8	0		8	8	8	0	8	8	0	0	8%
	GR																0	0	0%
	E	0	4428	8	0	8	0	0	8	8	8		198	0	8	8	4626	4626	8%
Mitglied-	P	8	8	0	8	8	8	8	0	8	0	8		0	8	8	8	0	0%
Staat der	FIN	8	0	8	8	0	8	8	8	0	8	0	8		0	8	0	0	8%
Untemehmer	S	0	0	8	0	8	8	0	8	8	0	8	0	8		8	8	0	8%
	A	0	0	8	8	0	0	8	0	0	8	8	0	8	0		0	0	8%
	total	2559	22482	54	12796	28836	190	369	8	8	0	771	198	0	8	0	68255	60255	100%
	1994	2559	22482	54	12796	28836	198	369	0	0	8	771	198	0	8	8	68255		
		4%	37%	0%	21%	35%	8%	1%	0%	0%	0%	1%	0%	0%	8%	0%	100%		

Non-regular service / Service non réguliers / Gelegenheitsverkehr
1000 passengers-km / 1000 km-voyageurs / 1000 Fahrgäste-km

	1994	Cabotage performed in :				Cabotage effectué en :				Kabotagefahrten in :									
		D	F	I	NL	B	L	UK	IRL	DK	GR	E	P	FIN	S	A	EUR	1994	
	D		8	0	8	0	0	8	0	0	0	3018	8	8	0	0	3818	3016	5%
Reporting	F	682		0	8	4255	23	0	8	8	0	30	0	0	0	0	4890	4890	7%
Member	I	8	0		8	0	0	0	0	8	8	8	8	8	8	8	8	0	0%
State	NL	483	380	122		278	8	0	8	0	0	145	0	0	8	8	1400	1400	2%
	B	182	13758	65	4443		22	8	8	0	0	8	8	0	0	8	18398	18390	28%
	L	73	97	0	0	5279		0	0	8	0	0	0	0	0	0	5449	5449	8%
Etat	UK	12	148	8	8	8	8		0	0	8	8	8	0	0	0	160	160	8%
Membre	IRL	8	8	8	0	0	0	367		0	0	8	8	6	0	8	367	367	1%
déclarant	DK	0	8	8	0	8	0	8	0		8	0	8	0	0	8	8	0	0%
	GR																0	0	0%
	E	8	31766	0	0	0	0	0	8	0	0		338	0	0	8	32104	32104	49%
Mitglied-	P	0	0	0	0	0	0	0	0	0	0	0		0	0	8	0	0	0%
Staat der	FIN	0	0	0	0	0	8	8	8	8	0	0	0		0	8	0	0	6%
Untemetimer	S	8	0	0	0	0	0	0	0	0	0	0	0	0		0	0	0	0%
	A	8	0	0	0	0	0	0	0	0	0	0	0	0	0		0	0	6%
	total	1252	46149	187	4443	9884	45	367	8	0	0	3193	336	0	0	0	65776	65778	100%
	1994	1252	46149	167	4443	9804	45	367	0	0	0	3193	338	0	0	0	65778		
		2%	70%	8%	7%	15%	0%	0%CABOTAGE	0%	0%	8%	6%	1%	0%	0%	0%	180%		

Non-regular service / Service non réguliers / Gelegenheitsverkehr
number of passengers / nombre de voyageurs / Anzahl der Fahrgäste

1995		Cabotage performed in :						Cabotage effectué en :				Kabotagefahrten in :								
		D	F	I	NL	B	L	UK	IRL	DK	GR	E	P	FIN	S	A	EUR		1995	
	D		0	0	0	0	0	0	0	0	0	494	0	0	0	125	325		325	0%
Reporting	F	2335		0	0	17123	0	0	0	0	0	0	0	0	0	0	19458		19458	23%
Member	I	0	0		0	0	0	0	0	0	0	0	0	0	0	0	0		0	0%
State	NL	1160	0	0		1035	0	0	0	0	0	83	89	0	0	0	2357		2357	3%
	B	111	27487	0	22275		277	0	0	0	0	0	0	0	0	0	50151		50151	50%
	L	3380	138	0	0	2537		0	0	0	0	0	0	0	0	0	5975		5975	7%
Etat	UK	0	0	0	0	0	0		0	0	0	0	0	0	0	0	0		0	0%
Membre	IRL	0	0	0	0	0	0	411		0	0	0	0	0	0	0	411		411	0%
déclarant	DK	0	0	0	0	0	0	0	0		0	0	0	0	0	0	0		0	0%
	GR																0		0	0%
	E	0	646	0	0	0	0	0	0	0	0		1041	0	0	0	1687		1687	2%
Mitglied-	P	0	0	0	0	0	0	0	0	0	0	0		0	0	0	0		0	0%
Staat der	FIN	0	0	0	0	0	0	0	0	0	0	0	0		251	0	251		251	0%
Unternehmer	S	0	0	0	0	0	0	0	0	0	0	0	0	0		0	0		0	0%
	A	144	3458	0	0	0	0	0	0	0	0	0	0	0	0		3612		3512	4%
	total	7050	31739	0	22275	20695	277	411	0	0	0	577	1130	0	261	125	84541		84247	100%
	1995	7050	31739	0	22275	20595	277	411	0	0	0	577	1130	0	251	125	84541			
		8%	38%	0%	25%	24%	0%	0%	0%	0%	0%	1%	1%	0%	0%	0%	100%			

Non-regular service / Service non réguliers / Gelegenheitsverkehr
1000 passengers-km / 1000 km-voyageurs / 1000 Fahrgäste-km

1995		Cabotage performed in :						Cabotage effectué erKabotagefahrten in :												
		D	F	I	NL	B	L	UK	IRL	DK	GR	E	P	FIN	S	A	EUR		1995	
	D		0	0	0	0	0	0	0	0	0	2171	0	0	0	53	2224		2224	5%
Reporting	F	748		0	0	4042	0	0	0	0	0	0	0	0	0	0	4790		4790	12%
Member	I	0	0		0	0	0	0	0	0	0	0	0	0	0	0	0		0	0%
State	NL	2645	0	0		213	0	0	0	0	0	121	109	0	0	0	3088		3088	8%
	B	192	14243	0	4849		12	0	0	0	0	0	0	0	0	0	19296		19296	48%
	L	842	92	0	0	889		0	0	0	0	0	0	0	0	0	1623		1623	4%
Etat	UK	0	0	0	0	0	0		0	0	0	0	0	0	0	0	0		0	0%
Membre	IRL	0	0	0	0	0	0	106		0	0	0	0	0	0	0	106		106	0%
déclarant	DK	0	0	0	0	0	0	0	0		0	0	0	0	0	0	0		0	0%
	GR																0		0	0%
	E	0	1450	0	0	0	0	0	0	0	0		7737	0	0	0	9197		9197	23%
Mitglied-	P	0	0	0	0	0	0	0	0	0	0	0		0	0	0	0		0	0%
Staat der	FIN	0	8	0	0	0	0	0	0	0	0	0	0		146	0	146		146	0%
Unternehmer	S	0	0	0	0	0	0	0	0	0	0	0	0	0		0	0		0	0%
	A	1	34	0	0	0	0	0	0	0	0	0	0	0	0		35		35	0%
	total	4428	15829	0	4849	4944	12	106	0	0	0	2292	7846	0	146	53	40505		40505	100%
	1995	4428	15829	0	4849	4944	12	106	0	0	0	2292	7846	0	146	53	40505			
		11%	39%	0%	12%	12%	0%	0%	0%	0%	0%	6%	19%	0%	0%	0%	100%			

Non-regular service / Service non réguliers / Gelegenheitsverkehr

number of passengers / nombre de voyageurs / Anzahl der Fahrgäste

	1996	Cabotage performed in :						Cabotage effectué en :				Kabotagefahrten in :								
		D	F	I	NL	B	L	UK	IRL	DK	GR	E	P	FIN	S	A	EUR	1996	
	D		0	0	0	0	0	0	0	0	0	1659	0	0	0	359	2018	2818	3%
Reporting	F	0		0	8	13385	0	8	8	0	8	0	0	0	0	8	13385	13385	18%
Member	I	0	0		0	0	0	0	0	8	0	0	0	0	0	0	0	8	0%
State	NL	1102	396	0		1327	0	0	0	0	0	180	0	0	0	129	3134	3134	4%
	B	2123	32575	0	16355		8	0	8	0	0	12	0	0	0	0	51065	51065	68%
	L																0	0	0%
Etat	UK	142	32	0	0	0	0		2237	0	0	0	0	0	0	0	2411	2411	3%
Membre	IRL	8	0	8	0	8	0	477		0	0	8	8	0	0	0	477	477	1%
déclarant	DK	0	48	0	8	0	0	0	8		0	0	0	0	142	0	190	190	0%
	GR																0	0	0%
	E	0	176	0	0	8	0	0	0	8	0		811	0	0	0	987	987	1%
Mitglied-	P	8	0	8	0	0	8	8	0	8	0	711		0	0	0	711	711	1%
Staat der	FIN	0	0	0	0	0	0	8	0	0	0	0	8		0	0	0	8	0%
Unternehmer	S	0	0	0	0	0	0	0	0	0	0	0	0	0		0	0	0	0%
	A	168	0	0	0	0	8	40	0	0	0	8	8	0	0		208	208	0%
	total	3535	33227	0	16355	14712	0	517	2237	0	0	2562	811	8	142	488	74586	74586	180%
	1996	3535	33227	8	16355	14712	0	517	2237	0	0	2562	811	0	142	488	74586		
		5%	45%	0%	22%	20%	0%	1%	3%	0%	0%	3%	1%	0%	0%	1%	100%		

Non-regular service / Service non réguliers / Gelegenheitsverkehr

1000 passengers-km / 1000 km-voyageurs / 1000 Fahrgäste-km

	1996	Cabotage performed in :				Cabotage effectué en :				Kabotagefahrten in :										
		D	F	I	NL	B	L	UK	IRL	DK	GR	E	P	FIN	S	A	EUR	1996	
	D		0	0	0	0	0	0	0	0	0	5528	0	0	0	591	6119	6119	13%
Reporting	F	0		0	8	2872	0	8	0	0	0	8	0	0	0	0	2872	2872	6%
Member	I	0	0		0	0	0	0	0	0	0	0	0	0	0	0	0	8	0%
State	NL	702	491	0		305	0	0	0	0	0	309	0	0	0	156	1963	1963	4%
	B	1303	18034	0	5371		0	0	8	0	0	4	0	0	0	0	24712	24712	54%
	L																0	0	0%
Etat	UK	33	5	0	0	0	0		5305	0	0	0	0	0	0	0	5343	5343	12%
Membre	IRL	8	0	8	0	0	0	122		0	8	0	0	0	0	0	122	122	0%
déclarant	DK	0	17	0	0	0	0	0	0		0	0	0	0	86	0	103	103	0%
	GR																0	0	0%
	E	0	141	0	0	0	0	8	0	0	0		2638	0	0	0	2779	2779	6%
Mitglied-	P	0	0	0	0	0	0	0	0	0	0	1438		0	0	0	1438	1438	3%
Staat der	FIN	0	0	0	0	0	0	0	0	0	0	0	0		0	0	0	0	0%
Unternehmer	S	8	0	0	0	0	0	0	0	0	0	0	0	0		0	0	0	0%
	A	1	0	0	0	0	0	11	0	0	0	0	0	0	0		12	12	0%
	total	2039	18688	0	5371	3177	0	133	5305	0	0	7279	2638	0	86	747	45463	45463	100%
	1996	2039	18688	0	5371	3177	0	133	5305	0	0	7278	2638	0	86	747	45463		
		4%	41%	0%	12%	7%	8%	0%	12%	0%	0%	16%	6%	0%	0%	2%	100%		

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