



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 9.6.2006
COM(2006) 284 final

2006/0099 (COD)

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on a procedure for prior examination and consultation in respect of certain laws,
regulations and administrative provisions concerning transport proposed in Member
States**

(Codified version)

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him new opportunities and the chance to make use of the specific rights it gives him.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if Community law is to be clear and transparent.

2. On 1 April 1987 the Commission therefore decided¹ to instruct its staff that all legislative acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that the Community rules are clear and readily understandable.

3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this², stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal Community legislative procedure.

Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal is to undertake a codification of Council Decision of 21 March 1962 instituting a procedure for prior examination and consultation in respect of certain laws, regulations and administrative provisions concerning transport proposed in Member States³. The new Decision will supersede the various acts incorporated in it⁴; this proposal fully preserves the content of the acts being codified and hence does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

¹ COM(87) 868 PV.

² See Annex 3 to Part A of the Conclusions.

³ Carried out pursuant to the Communication from the Commission to the European Parliament and the Council – Codification of the Acquis communautaire, COM(2001) 645 final.

⁴ See Annex I to this proposal.

5. The codification proposal was drawn up on the basis of a preliminary consolidation, in all official languages, of Council Decision of 21 March 1962 instituting a procedure for prior examination and consultation in respect of certain laws, regulations and administrative provisions concerning transport proposed in Member States and the instrument amending it, carried out by the Office for Official Publications of the European Communities, by means of a data-processing system. Where the Articles have been given new numbers, the correlation between the old and the new numbers is shown in a table set out in Annex II to the codified Decision.

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on a procedure for prior examination and consultation in respect of certain laws, regulations and administrative provisions concerning transport proposed in Member States

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee⁵,

Having regard to the opinion of the Committee of Regions⁶,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁷,

Whereas:



- (1) Council Decision of 21 March 1962 instituting a procedure for prior examination and consultation in respect of certain laws, regulations and administrative provisions concerning transport proposed in Member States⁸ has been substantially amended⁹. In the interests of clarity and rationality the said Decision should be codified.

↓ 62/403/EEC Recital 1 (adapted)

- (2) The attainment of the objectives of the Treaty within the framework of a common transport policy requires that a procedure for prior examination and consultation be maintained in respect of certain measures concerning transport proposed in Member States.

⁵ OJ C [...], [...], p. [...].

⁶ OJ C [...], [...], p. [...].

⁷ OJ C [...], [...], p. [...].

⁸ OJ of 3.4.1962, p. 720/62.

⁹ See Annex I.

↓ 62/403/EEC Recital 2

- (3) Such a procedure will help to promote close co-operation between Member States and the Commission in the attainment of the objectives of the Treaty and will help to prevent the transport policies of Member States from diverging.

↓ 62/403/EEC Recital 3

- (4) Such a procedure also serves to facilitate the progressive adoption of the common transport policy,

↓ 62/403/EEC

HAVE ADOPTED THIS DECISION:

Article 1

Any Member State proposing to adopt any laws, regulations or administrative provisions concerning transport by rail, road or inland waterway liable to interfere substantially with the implementation of the common transport policy shall, in good time and in writing, notify the Commission of such measures and at the same time inform the other Member States.

↓ 73/402/EEC Art. 1

Article 2

1. Within two months of receipt of the notification referred to in Article 1, the Commission shall address an opinion or a recommendation to the Member State concerned; it shall at the same time inform the other Member States thereof.
2. Any Member State may submit to the Commission its observations on the measures in question; it shall at the same time communicate them to the other Member States.
3. If a Member State so requests, or if the Commission considers it appropriate, the Commission shall consult all the Member States on the measures in question. In the case specified in paragraph 4 such consultation may take place after the event within two months.
4. The Commission may, at the request of the Member State, shorten the period laid down in paragraph 1, or if that State so agrees, extend it. The period shall be reduced to fifteen days if the Member State declares that the measures it proposes to take are of an urgent nature. The Commission shall inform the Member States of any such reduction or extension of the period.

5. The Member State shall not bring the measures in question into force until after expiry of the period provided for either in paragraph 1 or in paragraph 4, or after the Commission has formulated its opinion or recommendation, except in a case of extreme urgency, requiring immediate action by the Member State. In such case, the Member State shall at once inform the Commission and the procedure laid down in this Article shall be followed after the event within two months of receipt of such information.



Article 3

Council Decision of 21 March 1962 instituting a procedure for prior examination and consultation in respect of certain laws, regulations and administrative provisions concerning transport proposed in Member States is repealed.

References to the repealed Decision shall be construed as references to this Decision and shall be read in accordance with the correlation table in Annex II.



Article 4

This Decision is addressed to the Member States.

Done at Brussels, [...]

For the European Parliament
The President
[...]

For the Council
The President
[...]



ANNEX I

Repealed Decision with its amendment

Council Decision of 21 March 1962 instituting a procedure for prior examination and consultation in respect of certain laws, regulations and administrative provisions concerning transport proposed in Member States (OJ of 3.4.1962, p. 720/62)

Decision 73/402/EEC

(OJ L 347, 17.12.1973, p. 48)

ANNEX II

CORRELATION TABLE

Council Decision of 21 March 1962 instituting a procedure for prior examination and consultation in respect of certain laws, regulations and administrative provisions concerning transport proposed in Member States	This Decision
Articles 1 and 2	Articles 1 and 2
-	Article 3
Article 3	Article 4
-	Annex I
-	Annex II