

EVALUATION AND FITNESS CHECK (FC) ROADMAP			
TITLE OF THE EVALUATION/FC	Evaluation of Regulation (EC) No 1073/2009		
LEAD DG – RESPONSIBLE UNIT	DG MOVE/D3	DATE OF THIS ROADMAP	10 / 2015
TYPE OF EVALUATION	Ex-post internal Evaluation	PLANNED START DATE	07 / 2015
		PLANNED COMPLETION DATE	05 / 2016
		PLANNING CALENDAR	http://ec.europa.eu/smart-regulation/evaluation/index_en.htm
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A. Purpose
(A.1) Purpose
<p>The purpose of the ex-post evaluation is to provide the Commission with an assessment of the implementation of Regulation (EC) No 1073/2009 and its effects over the period 2009-2014. The aim is to have a view of the achievements, of the potential issues and of possible improvements/recommendations.</p> <p>Depending on the results of the evaluation, action could be taken. The results of the evaluation may either contribute to improving implementation of the Regulation or feed into an impact assessment study.</p>
(A.2) Justification
<p>The Commissions intent to build on and strengthen the single market and to fully exploit its potential in all its dimensions along with the desire to complete the internal market for services was publicised by President Juncker in his Agenda for Jobs, Growth, Fairness and Democratic Change. Furthermore, one of President Juncker's priorities is to reform and reorganise Europe's energy policy in the new European Energy Union. This includes a call to speed up action in the decarbonisation of the transport sector.</p> <p>One of the objectives of Regulation (EC) No 1073/2009 is to ensure a coherent framework for the international carriage of passengers by coach and bus throughout the EU for the internal market to function correctly. Regulation (EC) No 1071/2009 establishes the common rules concerning the conditions to be complied with to pursue the occupation of road transport operator. This includes the rules for road passenger transport operators. Therefore there is a strong relationship between these Regulations and the implementation of Regulation (EC) No 1073/2009 is affected by the implementation of Regulation (EC) No 1071/2009.</p> <p>Under Article 28 of Regulation (EC) No 1073/2009, every two years Member States must provide a report on the number of authorisations for regular services issued and the total number of authorisations for regular services valid at the end of the reporting period. Although these reports provide some valuable data, they provide limited understanding to the Commission of the implementation and effects of Regulation (EC) No 1073/2009 due to the fact that the reporting requirements in Article 28 of the Regulation are general in nature.</p> <p>An external study on the situation of the bus and coach market in Europe, "Study on passenger transport by coach in Europe", was produced for the Commission in 2009. However, it only covers 8 Member States and is therefore not complete. It is also to a certain extent outdated given recent developments.</p> <p>As a result of the deficit of information available to the Commission an evidence-based judgement of whether this intervention has met the needs it aimed to satisfy and actually achieved its expected effects is not possible without gathering further information and consulting stakeholders. The Commission has commenced gathering information by means of an external fact finding study "Comprehensive study on passenger transport by coach in Europe". This study will provide a thorough review and analysis of the European coach industry, including domestic long and medium distance regular services, international regular services and occasional transport and the final report is due in February 2016.</p> <p>Furthermore, the European Citizens' Mobility Forum, gathering representatives from the road and public transport</p>

industries, customers (European disability forum), local authorities and MEPs, have recently come up with recommendations for doubling the use of collective passenger transport in the coming 10 years. Members of the Forum drew the attention to remaining barriers which prevent the full use of the potential of transport by coach, despite the existence of Regulation (EC) No 1073/2009. They notably indicated that discriminatory practices in the access to coach terminals – not regulated by the Regulation – partly jeopardise the attainment of the goals of the legislation. Moreover, recent developments also indicate that it may be opportune to revise the Regulation to further open the market for buses and coaches.

Therefore the Commission deems it necessary to conduct an evaluation of Regulation (EC) No 1073/2009.

B. Content and subject of the evaluation

(B.1) Subject area

Regulation (EC) No 1073/2009 on common rules for access to the international market for coach and bus services is to a large extent a recast of two pre-existing pieces of legislation, namely Council Regulation 684/92/EEC on common rules for the international carriage of passengers by coach and bus, and Council Regulation 12/98/EC laying down the conditions under which non-resident carriers may operate national road passenger transport services within a Member State. These regulations had created an internal market for bus and coach services, the provision of which was previously regulated (and often restricted) by national legislation and by bilateral agreements between the member states. The recast only introduced minor new provisions, such as reporting obligations for Member States.

Regulation (EC) No 1073/2009 applies to the international carriage of passengers and provides for the opening to competition of the following services:

- regular¹, special regular² and occasional³ international carriage;
- national road passenger services carried out on a temporary basis (cabotage operations⁴); and
- the picking up and setting down of passengers within the same Member State, in the course of a regular international service, provided that this is not the principal purpose of the service (cabotage operations).

Member States very often restrict the markets which are covered by the Regulation by preventing companies which are not established in that Member States from providing services. Access to fixed infrastructure such as bus stops and coach terminals are not regulated either.

Market opening under Regulation (EC) No 1073/2009 takes into consideration public service obligations, regulated under Regulation (EC) No 1370/2007 on public passenger transport services by rail and by road, and provides for the possibility to restrict access to the market if it could harm public service obligations.

¹ Regular services means services which provide for the carriage of passengers at specified intervals along specified routes, passengers being picked up and set down at predetermined stopping points.

² Special regular services means regular services, by whomsoever organised, which provide for the carriage of specified categories of passengers to the exclusion of other passengers.

³ Occasional services means services which do not fall within the definition of regular services, including special regular services, and the main characteristic of which is the carriage of groups of passengers constituted on the initiative of the customer or the carrier himself.

⁴ Cabotage operations means either national road passenger services for hire and reward carried out on a temporary basis by a carrier in a host Member State, or the picking up and setting down of passengers within the same Member State, in the course of a regular international service, in compliance with the provisions of this Regulation, provided that it is not the principal purpose of the service

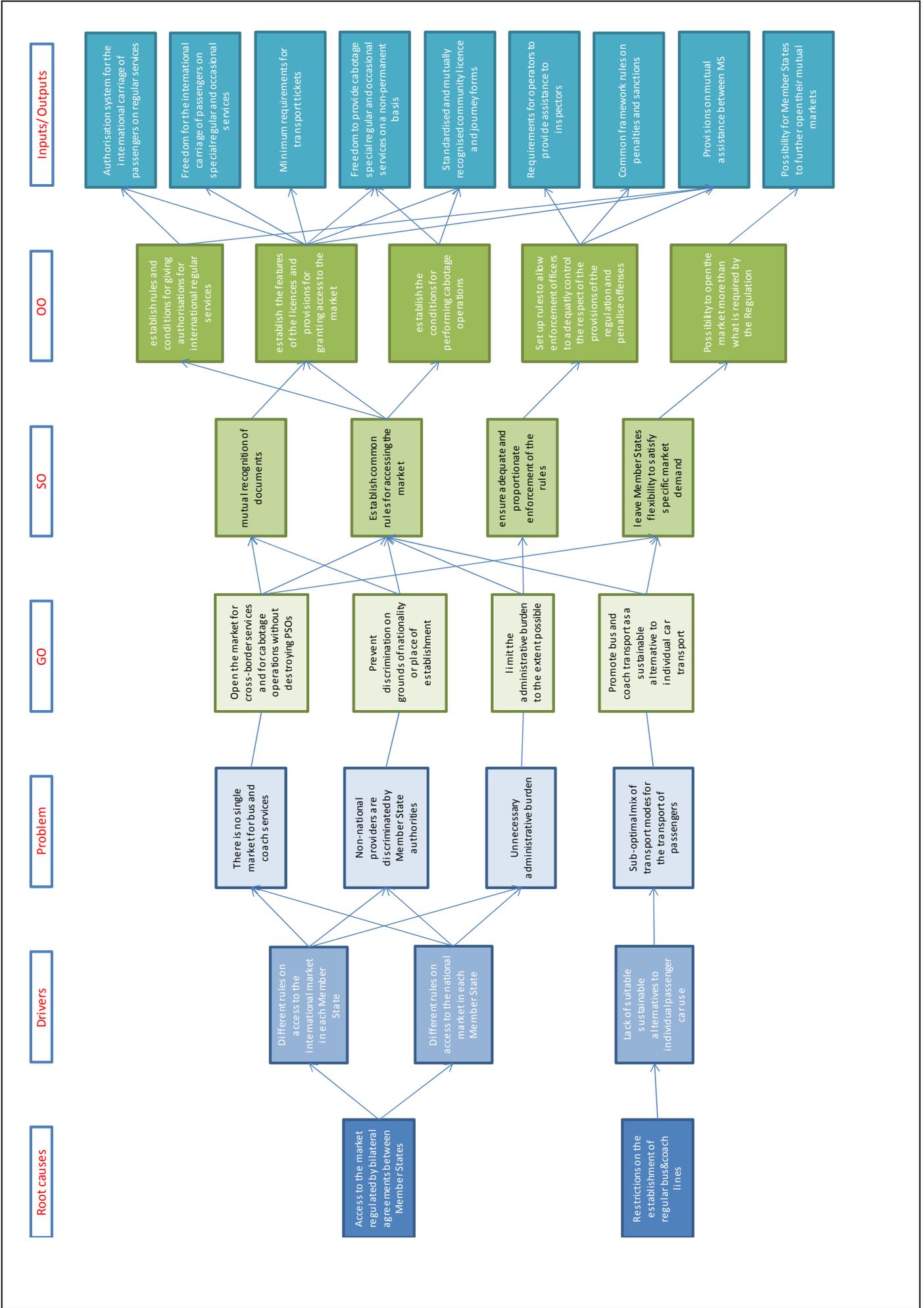
The following table summarises the scope of the Regulation:

Type of service	Basis	International carriage	Cabotage Operations
Regular Services	Permanent	Allowed with authorisation	Allowed with authorisation
	Temporary	Allowed with authorisation	Allowed with authorisation
Special regular services	Permanent	Allowed	Not allowed
	Temporary	Allowed	Allowed
Occasional Services	Permanent	Not regulated - not in the nature of occasional services	Not regulated - not in the nature of occasional services
	Temporary	Allowed	Allowed

Regulation (EC) No 1073/2009 was adopted as a part of a legislative package together with Regulation (EC) No 1071/2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and Regulation (EC) No 1072/2009 on common rules for access to the international road haulage market. Together, these three regulations regulate the conditions for accessing the profession and for accessing the markets of transport of goods and people by road.

(B.2) Original objectives of the intervention

The relation between the objectives and the problems the initiative aims to address is presented in the following diagram.



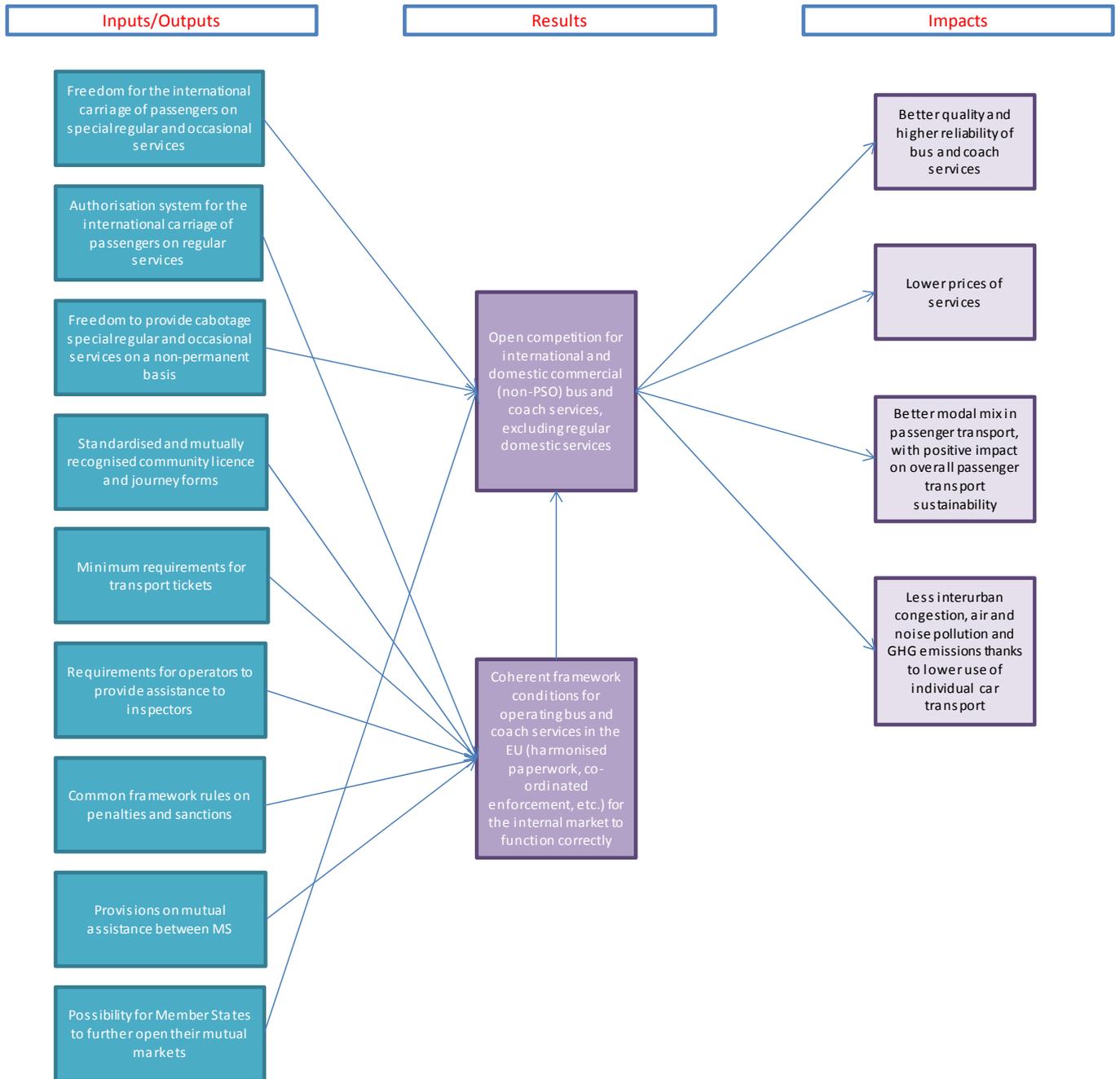
3) How the objectives were to be achieved

Regulation (EC) No 1073/2009 contains the conditions for the international carriage of passengers by coach and bus on regular, special regular and occasional services and for cabotage operations. To ensure mutual acceptance of market access licences, standardised community licences and journey forms are foreseen by the Regulation.

In addition, Regulation (EC) No 1073/2009 includes provisions facilitating enforcement, such as requirements for operators to allow for inspections, rules on penalties and sanctions and mutual assistance between Member States.

The aim of Regulation (EC) No 1073/2009 is to provide for a coherent framework which is expected to result in open competition for international and domestic commercial (non-PSO) bus and coach services, excluding regular domestic services.

The intervention logic of Regulation (EC) No 1073/2009 is provided below.



C. Scope of the evaluation/FC

(C.1) Topics covered

The general objective of the ex-post evaluation is to provide the Commission with an assessment of the effects of the legislation on access to the market for coach and bus services. The evaluation will cover the period since application of Regulations (EEC) No 684/92 and (EC) No 12/98 with a focus on the last 5 years, which broadly correspond to the period since the entry into force of most of the provisions of Regulation (EC) No 1073/2009 (end of 2011).

The evaluation should include the assessment of accuracy of application, the efficacy of enforcement and the effectiveness of the legislation with regard to its objectives.

(C.2) Questions/issues to be examined

Relevance

1) To what extent is the opening of the market for the international carriage of passengers and for cabotage operations as introduced by Regulation (EC) No 1073/2009 necessary and sufficient to address the pre-existing problems of fragmented internal market, discrimination, unnecessary administrative burden and sub-optimal mix of passenger transport modes?

2) Are the objectives of Regulation (EC) No 1073/2009 still relevant considering the evolution of the market, the present transport policy priorities and the successive enlargements of the EU?

Effectiveness

3) To what extent has the Regulation led to the establishment of a true internal market for bus and coach services?

4) To what extent has the intervention enhanced fair competition including non-discriminatory access to all the markets covered by the provisions of the Regulation?

5) Has market opening of bus and coach services contributed to a shift from other passenger transport modes (individual car transport, rail transport and aviation) and hence led to an increase in the use of bus and coach services? In case a shift took place, is it in line with overarching EU transport policy goals?

6) To what extent has the Regulation had an impact on the quality, reliability and price of the services?

7) To what extent has the Regulation brought unwanted or unexpected effects?

8) To what extent has the Regulation had an effect on employment (employment level, geographical shift, etc.), on working conditions (level of wages, working time, etc.) and on worker's mobility in the road passenger transport sector?

Efficiency

9) To what extent are administrative costs and enforcement costs for authorities (licensing and authorisation, inspections, penalty system, mutual assistance) and compliance and administrative costs for transport operators proportionate and necessary in relation to the outputs and results achieved?

Coherence

10) Are the provisions of the regulation, including in particular the definition of cabotage operations, consistent with those of Regulation (EC) No 1071/2009 which governs access to the occupation of road transport operator and (EC) No 1072/2009 which regulates access to the market of international freight market?

11) Is the objective of promoting bus and coach transport as a sustainable alternative to individual car transport coherent with the EU's modal shift policy (as notably expressed in the 2011 White Paper on Transport), and more generally, with overarching EU strategies (policy on combatting climate change, providing for a deeper and fairer internal market, Energy Union, etc.)?

12) To what extent are enforcement rules of the Regulation compatible with similar rules in other pieces of legislation applied to the same operators? In practice, to what extent are enforcement rules streamlined?

EU Added Value

13) To what extent has the Regulation permitted achievements which could not be reached at Member State level through the bilateral agreements previously in place?

(C.3) Other tasks
N.A.

D. Evidence base
(D.1) Evidence from monitoring
<p>Article 28 of Regulation (EC) No 1073/2009 puts upon Member States the following reporting obligations:</p> <ul style="list-style-type: none"> - every 2 years, Member States shall communicate to the Commission the number of authorisations for regular services issued the previous year and the total number of authorisations for regular services valid at the end of the reporting period. This information shall be given separately for each country of destination (this reporting obligation was already present in Article 7 of Council Regulation 12/98 – data was to be provided annually). Member States shall also communicate to the Commission the data concerning cabotage operations, in the form of special regular services and occasional services, carried out during the reporting period by resident carriers (this last reporting obligation was already present in Article 7 of Council Regulation 12/98 – data was to be provided by Member States for each quarter). - every 2 years, host Member States shall send to the Commission statistics on the number of authorisations issued for cabotage operations in the form of regular services. - each year, Member States shall inform the Commission of the number of carriers holding a Community licence and of the number of certified copies corresponding to the number of vehicles in circulation. <p>At the moment, one full set of data for 2011-2012 is available, as well as an incomplete set for 2013-2014.</p> <p>Although these reports provide some valuable data, they provide limited understanding to the Commission of the implementation and effects of Regulation (EC) No 1073/2009 due to the fact that the reporting requirements in Article 28 of the Regulation are general in nature.</p>
(D.2) Previous evaluations and other reports
<p>An external study on the situation of the bus and coach market in Europe, "Study on passenger transport by coach in Europe", exists but only covers 8 Member States is not complete and is somewhat outdated.</p> <p>The Commission has launched a fact finding study, which started in June 2015, to establish a comprehensive and comparative overview of the current situation of the coach industry in the EU through an analysis of trends and possible future developments in respect of key EU priorities: efficient mobility, co-modality, fair competition and social aspects. This study will provide a thorough review and analysis of the European coach industry and will build on the work and findings of the study carried out for the European Commission in 2009.</p>
(D.3) Evidence from assessing the implementation and application of legislation (complaints, infringement procedures)
<p>The Commission has received complaints about the interpretation by national authorities of the provisions on cabotage, and notably of the term "temporary basis" of the allowed services.</p>
(D.4) Consultation
<p>Relevant stakeholders will be contacted through a combination of interviews and questionnaires in the frame of the external fact finding study, through targeted consultation in the frame of the internal evaluation and through open public consultation that is part of both the internal ex-post evaluation and Impact Assessment. At least the following stakeholders will be involved: the International Road Transport Union, the European Road Transport Workers' Federation, the European Citizens Mobility Forum, the European Association of Craft, Small and Medium-sized Enterprises, the Small Business Alliance, Euroline, iDBUS, the National Express Group and national transport authorities. The consultation strategy will be further defined in the course of the internal evaluation study.</p>
(D.5) Further evidence to be gathered
<p>Data on the state of play on the buses and coaches market, including terminals, will be gathered through the fact-finding study referred to above. Further data will be gathered in the frame of the internal evaluation study through stakeholder consultation and desk research.</p>

E. Other relevant information/ remarks

N.A.