

Avosetta meeting

23/24 November 2012

Conclusions

At its meeting on 23/24 November 2012 in Fribourg/Switzerland the Avosetta group discussed different issues on Transport Policy/Law and the Environment. The discussions highlighted the following points:

1. Concerning the ECJ jurisprudence on Article 34 TFEU there is concern that the Dassonville formula is overstretched if it encompasses all kinds of restriction of road transport. In relation to the public interests justifying restrictions, the effects of individual road transport on climate protection should more forcefully be recognized.
2. The EU Treaties have focused almost exclusively on the movement and transportation of products and persons. “Mobility” is a richer and more powerful underlying goal than transportation - it includes, for example, the needs of children, pedestrians and cyclists not to have their mobility opportunities restrained by road transport. Up to now, a general mobility policy is not part of the EU Treaties; its introduction would thus need a change in the Treaties.
3. Art. 11 TFEU obliges the EU to integrate environmental concerns in other policy areas, including transport policy. But legally binding measures at a European Union level almost exclusively concentrate on issues of liberalization and harmonization necessary in order to achieve the free movement of services and goods. Even allowing for the fact that art. 11 TFEU leaves a certain margin of appreciation to the EU institutions, the excessive emphasis on liberalization does not seem to be in accordance with the integration principle.
If one wants to bring environmental considerations to transport decisions, one will therefore have to enlarge the EU transport decisions by the environmental aspect. National measures to protect the environment will inevitably be concentrated on specific roads or areas and aim too short. So, it is necessary to work more at EU level.
4. Instead, the liberalization and the realization of the internal market has been the cause of a significant increase of traffic volume. The following issues raise particular concerns:
 - The multiple decisions affecting the modal split between road and other forms of transport, especially railway transport, including the introduction of charges, taxes, subsidies, regulatory oversight, land-use planning are often taken in a fragmented

and haphazard way. There should be an obligation to high level planning, which should be subject to a sustainability assessment, as to its environmental and social aspects.

- Directive 99/62 on the charging of heavy goods vehicles for the use of certain infrastructures enables MS to introduce certain tools and user charges, but only air pollution and noise are mentioned as external costs that can be reflected in charges. It should be revised to include other types of external environmental costs, such as climate change, soil contamination, and damage to nature. The scope of the Directive should be extended to encompass more than just those motorways belonging to the TEN network.
 - As to the construction of motorways it is to be deplored that the decision on the TEN of roads apparently has been taken without proper consideration of environmental effects, including effects on climate change. When considering TEN projects Member States should therefore operate a rational planning, including all environmental aspects before agreeing to a TEN-road project at EU level (the approval of the Member State concerned being required by Article 172 TFUE).
 - On the level of MS road planning the modal splits, including transfer of goods to rail should be better included in the consideration of alternatives during SEA procedures. Preferably this should be done on a higher level of planning. However, if the authorities fail to do this this failure should be taken as affecting the final project approval.
5. Where practicable, product labels indicating the origin of a product should be developed preferably on the EU level in order to inform the consumer about the distance travelled by the product to the point of sale. This would apply to goods produced both outside the EU and within the EU. It is recognized this may not be realistic for goods where components are manufactured and assembled in many different locations. But a sensible starting point would be goods such as agricultural products with a single point of origin.
 6. Hot spots of transnational importance and / or on a transnational level, such as transportation across the Alps due to an increased traffic remain unsolved. Solutions such as a toll system or an alpine transit exchange system have to be developed at an international, possibly EU, level.
 7. There are still various possibilities for Member States to take autonomous measures in order to further integrate environmental issues into transport policy. Examples include

different systems of road pricing, different sorts of traffic regulation and / or reduction, cap and trade systems product labeling). However, such measures have to be in accordance with EU law – here the single market rules and the fundamental freedoms (and how they are interpreted in law) are of special significance.

8. The group is of the opinion that deeper research on these and other matters related to the issue “transport policy and environment” is necessary and urgent.

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