



Council of the
European Union

Brussels, 18 May 2018
(OR. en, de)

**Interinstitutional File:
2016/0014 (COD)**

8499/2/18
REV 2 ADD 1

**CODEC 665
ENT 81
MI 304**

'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft Regulation of the European Parliament and of the Council on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (**first reading**)

- Adoption of the legislative act
- Statements

Declarations of the European Commission

The link between the different EU and national databases (Article 9a)

"The Commission shares the views of the legislator that interconnection between the different databases used for type-approval and market surveillance should be ensured. As some databases are managed individually by Member States, successful interconnection will depend on the full cooperation of Member States."

The New Deal for Consumers

“The Commission is concerned by mass harm situations affecting interests of consumers, as illustrated by the revelations in September 2015 about car manufacturers circumventing emissions standards for certain air pollutants, and sees the limits of existing national procedural means to secure appropriate consumer redress in such situations. The Commission has adopted a proposal on representative actions for the protection of the collective interests of consumers [COM(2018)184] as part of the New Deal for Consumers package on 11 April 2018, with the aim to empower qualified entities to launch representative actions on behalf of consumers and to introduce stronger sanctioning powers for Member States' consumer authorities. With this proposal, once adopted, victims of unfair commercial practices, such as misleading advertising by car manufacturers not in compliance with the Union regulatory framework for type approval of vehicles or environmental legislation, will be in a position to obtain remedies collectively.”

The obligatory market checks on the market by the Commission (Article 9)

"The Commission welcomes that the market checks to be carried out by the Commission were confirmed by the legislator. It is now essential that the legislator also ensures that this activity is properly financed in particular in the context of the Commission proposal for the next Multiannual Financial Framework".

The status quo for end of series (Article 47)

"The Commission regrets that for end-of series, instead of an EU procedure, the future legislation will maintain the status quo of a national procedure which is burdensome for importers, vehicles manufacturers, national and regional authorities. The current procedure also has no value added for safety and environment and creates problems for the internal market of used vehicles."

The rules on the committee work

“For Committee rules; the Commission underlines that it is contrary to the letter and to the spirit of regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5§4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established in Article 5§4 recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified.“

The deletion of the delegation to the Commission to regulate CO2 in-use testing defeat device (Article 91)

“The Commission regrets that the initial Commission proposal to regulate in-service-conformity of CO₂ emissions through implementing legislation was not supported by the co-legislators. This will further delay the set-up of an in-service-conformity assessment procedure which is a core element for ensuring that the CO₂ emission and fuel consumption values attributed to individual vehicles are reliable. The Commission has included a similar mandate in its proposal for new Light Duty Vehicle CO₂ emission standards adopted on 8 November 2017 and calls on the co-legislators to support it.“

STATEMENT BY THE CZECH REPUBLIC AND LATVIA

The Czech Republic and Latvia fully agree with the need for revision of the type-approval framework for motor vehicles, systems, components and separate technical units intended for such vehicles, with the view to ensure high level of safety and protection of health and the environment.

The Czech Republic and Latvia support the aims and principles of the new Regulation such as efficient market surveillance, clear and harmonised recall and safeguard procedures, proper functioning of technical services, closer coordination between national authorities and uniform application of type-approval rules. Efficient market surveillance system should be, first of all, based on a principle of risk assessment.

The Czech Republic and Latvia remain critical towards claimed added value of the additional oversight of the Commission over national type-approval authorities as agreed in the text of Article 9a resulting from the trialogues with the European Parliament. The assessment of type-approval authorities by the Commission cannot be considered as necessary and proportionate for achieving the aims of the Regulation. On the contrary, besides adding unnecessary bureaucracy into the system, such a mechanism undermines the very principles of EU type-approval system. The Article 9a interferes with the activities of national authorities that are in competence of Member States. By not respecting the competencies of national type-approval authorities confidence and respect of the EU type-approval system as such is being undermined. In addition such assessment will duplicate the peer-evaluation system and increase the already significant administrative burden for authorities.

Furthermore, the Czech Republic and Latvia are of the opinion that the text of Article 90 is of utmost importance as it sets EU fines mechanism that results in direct impact on manufacturers. Therefore, procedure, methods for the calculation and collection of administrative fines should be adopted by means of an implementing act.

STATEMENT BY GERMANY

The Federal Government would like to thank all stakeholders for this draft regulation on the type approval and market surveillance of motor vehicles and their trailers. Germany supports the revision of the Framework Directive on the type approval and market surveillance of motor vehicles and of systems, components and separate technical units with the objective of ensuring a high level of road safety and the protection of health and the environment. This applies in particular to the introduction of mandatory market surveillance, Member States' obligation to provide information and the stricter monitoring of technical services that carry out vehicle testing in the context of type approvals.

However, we are of the opinion that the draft regulation does not go far enough. The objective is that rules for type approvals and market surveillance be improved and that trust in European type approval legislation be restored. During the discussions, Germany submitted numerous proposals that go beyond the current proposal and would have contributed to its unambiguity, clarity and applicability. We regret that some of Germany's basic demands have not been included in the present draft regulation. This applies in particular to the following aspects:

- The specification of rules for type approval and market surveillance with a clearly defined procedure for non-compliant products.
- The Federal Government's proposal to establish a clearing house that, as an expert body, prepares a decision within clearly defined deadlines in the event of disputes.
- The introduction of a rotation system for technical services for the purposes of improving quality. In accordance with the 'four-eyes principle', a second technical service should carry out random checks and thereby enhance the quality of type approvals.
- The replacement of rules regarding end-of-series vehicles with certificates of conformity (CoC) for first registrations that, once issued, are valid for an unlimited period of time.

Germany also continues to champion the administrative monitoring of CO₂ emissions and the monitoring of fuel consumption in real-world driving, as they have been deleted from the present proposal. We consider it important that this measure be implemented promptly.
