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European Union

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### **STATEMENT OF THE COUNCIL'S REASONS**

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Subject: Position of the Council at first reading with a view to the adoption of a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directives 1999/62/EC, 1999/37/EC and (EU) 2019/520, as regards the charging of vehicles for the use of certain infrastructures

- Statement of the Council's reasons
- Adopted by the Council on 9 November 2021

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## I. INTRODUCTION

1. The European Commission submitted the above-mentioned proposal to the European Parliament and to the Council on 1 June 2017 as part of the First Mobility Package.
2. This proposal modifies Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures<sup>1</sup> (hereinafter ‘Directive 1999/62/EC’), with the aim of addressing problems relating to greenhouse gas emissions, financing of road infrastructure and congestion.
3. The European Parliament designated its Committee on Transport and Tourism (TRAN Committee) as the committee responsible for this proposal and Mrs Christine Revault d'Allonnes Bonnefoy as the rapporteur for the 8<sup>th</sup> parliamentary term.
4. The European Economic and Social Committee adopted its opinion on the proposal at the 529<sup>th</sup> plenary session, on 18 October 2017. The European Committee of the Regions adopted its opinion at the 127<sup>th</sup> plenary session, on 1 February 2018.

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<sup>1</sup> OJ L 187, 20.7.1999.

5. On 25 October 2018, the European Parliament adopted its first-reading position.
6. Following the parliamentary elections in 2019, Mr Giuseppe Ferrandino was designated as the rapporteur for the 9<sup>th</sup> parliamentary term.
7. The TRAN committee adopted a decision on 24 September 2019 to enter into informal political trilogues, based on the European Parliament's first-reading position.
8. At the Council, the Working Party on Land Transport started its work on 1 June 2017 with a general presentation of the proposal. On 21 June 2017, the impact assessment was analysed.
9. The Council (TTE, Transport) held its first policy debate on the proposal on 5 December 2017.<sup>2</sup>
10. Since then, the proposal has been discussed on several occasions and extensive work has been carried out.
11. On 18 December 2020, the Permanent Representatives Committee endorsed the mandate set out in the Annex to document 13827/20, which allowed negotiations with the European Parliament to begin.
12. Between January and June 2021, a significant number of meetings were held by at the level of the Working Party on Land Transport and of the Permanent Representatives Committee to prepare and follow up on negotiations.
13. Three informal political trilogues with the European Parliament held on 29 January, 23 March and 15 June 2021, accompanied by a number of technical meetings, allowed the co-legislators to reduce the gap between their positions and thus reach a political agreement.
14. On 30 June 2021, the Permanent Representatives Committee analysed the provisional compromise text with a view to reaching an agreement.<sup>3</sup>

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<sup>2</sup> Ref. document 14426/17.

<sup>3</sup> Ref. documents 9960/21 and 9960/21 COR 1.

15. On 14 July 2021, the Chair of the European Parliament's TRAN Committee addressed a letter<sup>4</sup> to the President of the Permanent Representatives Committee stating that, if the Council adopted its position at first reading in accordance with the text attached to that letter, she would recommend to the Members of the TRAN Committee and subsequently to the plenary that the Council's position be accepted without amendment, subject to legal-linguistic verification, at European Parliament's second reading.
16. On 9 November 2021, the Council adopted its position at first reading on the proposal as set out in document 10542/21.

## **II. OBJECTIVE**

17. The amendments to Directive 1999/62/EC set out in the European Commission proposal were aimed at boosting road transport decarbonisation. They mainly focused on the following:
- extending the scope of charging rules to buses and coaches, to trucks between 3.5 and 12 tonnes and, to some extent, to light-duty vehicles including passenger cars;
  - phasing out time-based charging systems (the so-called 'vignettes') for heavy- and light-duty vehicles;
  - the mandatory application of an external-cost charge to heavy-duty vehicles on those parts of the network where environmental damage generated by such vehicles would be significant, as well as the revision of the requirements to levy such charges;
  - differentiating prices based on CO<sub>2</sub> emissions rather than on Euro emission classification; and
  - allocating revenues generated from congestion charges, or their equivalent in financial value, to address the problem of congestion.

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<sup>4</sup> Ref. IM 010110 2021. Please note that, because of the COVID-19 pandemic, the paper version of the letter was not sent by regular mail.

### **III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING**

#### **A. General**

18. The compromise text that was confirmed by the Council on 9 November 2021 fully reflects the political agreement reached by the co-legislators. It also maintains the main objectives of the European Commission proposal and, at the same time, reflects a balance between the most important amendments adopted by the European Parliament in its first reading and the Council mandate.
19. At its first reading, the European Parliament adopted about 130 amendments, which have been analysed on a number of occasions at the level of the Working Party on Land Transport. From the outset, the positions of the two co-legislators appeared to be significantly divergent on many provisions, including the most controversial ones, such as the phasing-out of user charges. Nevertheless, following intensive negotiations at both political and technical level, convergence between the two co-legislators was eventually reached.

#### **B. Main issues**

20. Overall, the modifications made to the European Commission proposal respect its overarching goals to:
- strengthen the application of the ‘user pays’ and ‘polluter pays’ principles;
  - properly contribute to the financing of road infrastructure;
  - address congestion;
  - boost transport decarbonisation; and
  - contribute to achieving climate objectives.

21. At the same time, the co-legislators have found the right balance between the ambition when it comes to the above mentioned goals and the need to ensure that the regulatory framework is easily applicable by the sector or authorities and flexible enough to allow the Member States to choose the most suitable charging systems, without creating unjustified administrative burdens.
22. More specifically, the main changes compared to the original European Commission proposal can be summarised as follows:
- a) the list of definitions in Article 2 has been extended, with some new definitions being added (e.g. ‘motor caravan’, ‘van’, ‘zero-emission vehicle’) and others being made clearer or more specific (e.g. ‘heavy-duty vehicle’, ‘light-duty vehicle’, ‘substantially amended tolling or charging arrangement’);
  - b) Article 7, the core provision defining the general charging principles, has been revised so that:
    - vehicles – be they light- or heavy-duty vehicles or vehicle types within such categories – can be charged independently from each other. Nevertheless, where passenger cars are charged, light commercial vehicles have to be also charged at an equal level or higher;
    - Member States can decide to maintain the *status quo* of existing concession contracts, while not applying the new charging rules until the contract has been renewed or the tolling or charging arrangement has been substantially amended;
    - Member States can provide for reduced tolls or user charges or exemptions from the obligation to pay tolls or user charges in specific cases (e.g. for zero-emission vehicles with a technically permissible maximum laden mass up to 4.25 tonnes);

- user charges for heavy-duty vehicles will be phased out on the core TEN-T network within eight years of the entry into force of the directive. Member States applying a common system of user charges (e.g. the ‘Eurovignette Treaty’) can nevertheless take two additional years to adapt or discontinue that system. As a derogation from the general principle of phasing-out, exemptions are allowed in duly justified cases, after notifying the scheme to the Commission;
  - the Article (together with Article 7a) now includes two review clauses allowing the Commission to assess the implementation and effectiveness of the directive with regard to the charging of light-duty vehicles as well as the technical and legal feasibility of differentiating the treatment of light commercial vehicles.
- c) a new provision, Article 7aa, now lays down the so-called ‘combined charging system’. This Article provides that Member States applying tolls on their core TEN-T network or on part of it before the entry into force of the directive, can establish a combined charging system for all heavy-duty vehicles or for some types of heavy-duty vehicles. Within that system, the user charges have to be varied according to the vehicle’s CO<sub>2</sub> emissions and Euro emission class;
- d) slight adjustments to the proportionality of the user charges for passenger cars have been made in Article 7a. Additionally, according to this provision, the use of the infrastructure also has to be made available for a day, and for a week or ten days or both. Nevertheless, the Member States may limit the daily user charge for transit purposes only. If Member States set different charges for light commercial vehicles and for passenger cars, the charge rates for light commercial vehicles will be higher than those for passenger cars;

- e) when it comes to internalising external costs for heavy-duty vehicles, Articles 7ca and 7cb now make external-cost charging for air pollution mandatory, after a four-year transition period, where tolls are applied. Nevertheless, the Member States will be able not to apply the external-cost charge for air pollution, in case of unintended consequences involving the diversion of traffic, after notifying the Commission. This mandatory charging is without prejudice to the choice of the Member States to apply an external-cost charge for CO<sub>2</sub> emissions anyway. Nevertheless, the Commission will be allowed to evaluate the implementation and effectiveness of external-cost charging for CO<sub>2</sub> emissions;
- f) when it comes to optional charging:
- Article 7da now lays down that revenues generated from (optional) congestion charges, or their equivalent in financial value, are to be used to address the problem of congestion, or to develop sustainable transport and mobility in general. Where such revenues are allocated to the general budget, Member States will be deemed to have fulfilled the obligation if they implement financial support policies to address the problem of congestion or to develop sustainable transport and mobility in general which have a value equivalent to the revenues generated from congestion charges; and
  - Article 7f now lays down that if two or more Member States decide to apply a mark-up in the same corridor, the mark-up can exceed 25% (but not 50%), only upon agreement of all Member States which are part of that corridor and which neighbour the Member States in the territory of which the section of the corridor where the mark-up is to be applied falls;



- g) as regards variations based on CO<sub>2</sub> emissions and on the environmental performance of the vehicles:
- a new provision, Article 7ga, introduces CO<sub>2</sub> in the list of chargeable costs, in line with climate objectives. This provision requires Member States to vary infrastructure and user charges for heavy-duty vehicles based on CO<sub>2</sub> emissions. Initially, the scheme should only apply to the largest trucks, but it would gradually be extended to other types of heavy-duty vehicles and regularly adapted to technological progress. Member States will also be able to give preferential treatment to zero-emission vehicles, in order to incentivise the purchase of ‘best-in-class’ vehicles. The new provision nevertheless includes safeguards to avoid double rewarding of hybrid vehicles and possible overlaps with other carbon-pricing instruments; and
  - Article 7gb now leaves discretion to the Member States when it comes to differentiating tolls and user charges for light-duty vehicles according to the environmental performance of the vehicle. Nevertheless, this provision requires mandatory variation of tolls and the annual rate of the user charges for vans and minibuses, according to the environmental performance of the vehicle, as of 2026, where tolls or user charges are applied and where technically practicable;
- h) adjustments have been made to Article 11, as regards both the type of information to be provided in the report that the Member States are required to make public in an aggregate form and the frequency of its publication (i.e. the report will have to be drawn up by three years after the entry into force of the directive and every five years thereafter);
- i) Article 4 of the amending directive sets a transposition period of two years; and
- j) the Annexes have been revised as regards maximum amounts of user charges, minimum requirements and reference values of external-cost charges, minimum requirements and reference values of congestion charges and emission performance criteria for pollutants for light-duty vehicles.

#### IV. CONCLUSION

23. The Council's position maintains the main objectives of the European Commission's proposal and fully reflects the compromise reached in the informal negotiations between the Council and the European Parliament, with the support of the European Commission.
  24. This compromise was confirmed by a letter from the Chair of the European Parliament's TRAN Committee addressed to the Presidency and dated 14 July 2021; it was subsequently adopted by the Council (ECOFIN) on 9 November 2021 as a first reading position.
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