



Brussels, 28 October 2022
(OR. en)

13790/22

**Interinstitutional File:
2017/0115(CNS)**

**FISC 205
ECOFIN 1061
TRANS 658**

NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Draft Directive amending Directive 1999/62/EC on the charging of vehicles for the use of road infrastructures, as regards certain provisions on heavy goods vehicle taxation – Political agreement

I. BACKGROUND

1. On 31 May 2017, the Commission issued its proposal for a Council Directive amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures, as regards certain provisions on vehicle taxation¹.
2. The Commission presented the proposal along with another proposal to amend Directive 1999/62/EC as regards tolls and user charges² as part of the first Mobility Package. Together, these two proposals mean to promote the application of road charging related to the distance travelled to incentivise cleaner, more efficient road transport operations.
3. The proposal on tolls and user charges aimed to phase out time-based charges (“vignettes”) and extend the road pricing principle to more vehicles, based on simpler and greener methodologies for calculating the road charges.

¹ Doc. 10175/17.

² Doc. 9672/17.

4. The objective of the proposal on vehicle taxation was to offer Member States more scope for lowering heavy goods vehicle taxes by gradually reducing the minimum tax rates laid down in the Annex of Directive 1999/62/EC (the “Eurovignette Directive”).
5. Although the Eurovignette Directive was amended twice before 2017³, the provisions on vehicle taxation have not been altered since the adoption of the original Directive in 1999, eroding the value of the minimum levels contained in its Annex.
6. In the meantime, most Member States started charging heavy goods vehicles according to the distance travelled by introducing tolls. Nevertheless they are still obliged to levy heavy goods vehicle taxes, which by nature do not reflect any particular use of infrastructure.
7. The European Committee of the Regions issued its opinion on the proposal on vehicle taxation on 31 January 2018⁴, the European Economic and Social Committee on 2 March 2018⁵ and the European Parliament on 4 July 2018⁶. All of these support the aim of Commission proposal.

II. WORK IN THE COUNCIL

8. In September 2017, under the Estonian Presidency of the Council, it was decided to treat both proposals amending the Eurovignette Directive as a package in the Working Party on Land Transport. The proposal on vehicle taxation was therefore presented in that Working Party on 23 October 2017. After that, the work on the proposal was halted pending progress with the proposal on tolls and road charges.

³ By Directive 2006/38/EC and Directive 2011/76/EU.

⁴ Opinion of the European Committee of the Regions “Europe on the move: promoting seamless mobility solutions”, CDR3560/2017.

⁵ Opinion of the European Economic and Social Committee, EESC-2017-2888.

⁶ European Parliament legislative resolution of 4 July 2018 on the proposal for a Council directive amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures, as regards certain provisions on vehicle taxation, P8_TA(2018)0289.

9. Meanwhile the discussions on the proposal on tolls and road charges was taken forward in trilogues. In 2021, the Permanent Representatives Committee and the European Parliament Committee on Transport and Tourism (TRAN) confirmed the agreement reached in the trilogues, and on 17 January 2022, the European Parliament approved the Council's position in first reading without amendments. The act was subsequently published in the Official Journal on 4 March 2022⁷.
10. Since the proposal on road charges was adopted and the proposal on heavy goods vehicle taxation was still on the table, the Czech Presidency decided to resume the discussions on the proposal in the Working Party on Tax Questions (WPTQ), taking into account the proposal's legal base (Article 113 TFEU) and the principal subject of the proposal (taxation). The Presidency organised WPTQ meetings on the proposal on 15 September and 7 October 2022.
11. In the first meeting, the Commission presented its proposal, framing it in the context of the first Mobility Package. The directive under discussion is the only part that has not been adopted yet. The Commission explained that the prevention of tax-induced cross-border re-registration of vehicles is ensured by instruments in the package adopted in 2020: the directive on the posting of drivers⁸, the regulation on driving time, rest periods and tachograph⁹ and the regulation on access to the EU road haulage market¹⁰.

⁷ OJ L 69, 4.3.2022, p 1.

⁸ Directive (EU) 2020/1057 laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector and amending Directive 2006/22/EC as regards enforcement requirements and Regulation (EU) No 1024/2012, OJ L 249, 31.7.2020, p. 49.

⁹ Regulation (EU) 2020/1054 of the European Parliament and of the Council of 15 July 2020 amending Regulation (EC) No 561/2006 as regards minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods and Regulation (EU) No 165/2014 as regards positioning by means of tachographs, OJ L 249, 31.7.2020, p. 1.

¹⁰ Regulation (EU) 2020/1055 of the European Parliament and of the Council of 15 July 2020 amending Regulations (EC) No 1071/2009, (EC) No 1072/2009 and (EU) No 1024/2012 with a view to adapting them to developments in the road transport sector, OJ L 249, 31.7.2020, p. 17.

12. In the second meeting, the Commission provided updated figures on the road freight market and explanations of the measures that have been taken to eliminate illicit business practices by ensuring that transport operators are genuinely established in the Member State where they carry out the core of their activities. The presented figures show that the lowering of the minimum rates for heavy goods vehicle taxation would have a very minimal impact on the incentives for trucking companies to relocate, which could affect Member States' tax bases.
13. Furthermore, the Czech Presidency presented a compromise text with its main features consisting of the possibility to lower the minimum rates to zero from the entry into force of the Directive (discarding the gradual reduction proposed by the Commission) and a recital to reassure Member States that the lowering of the minimum rates left the Member States ample discretion to keep their existing heavy goods vehicle taxation rates.
14. Most Member States welcomed and supported the Presidency compromise text and its focus on ensuring as much flexibility as possible. Some Member States raised concerns on the start of application of the Directive and its alignment with the Eurovignette Treaty, on the need to retain Annex I if rates would be lowered to zero, and on a possible budgetary impact as a result of pressure to lower national rates when other Member States lowered theirs.
15. Consequently, at the meeting of the Working Party on Tax Questions (High Level), the Presidency put forward a revised compromise text with the aim of accommodating the concerns raised by delegations. In particular, the entry into force was postponed and a review clause was inserted. Despite the broad support for this text expressed at the meeting, a few delegations were still not in a position to lift their reservations.
16. In response to the concerns raised, the Presidency has decided to amend the application date of the Directive by postponing it until 1 January 2026 in the text in the Annex to this note.

III. WAY FORWARD

17. Against this background, the Committee of Permanent Representatives is invited to:

- reach an agreement on the text in the Annex to this note;
 - suggest to the Council to reach a political agreement on the draft Directive on the basis of the Presidency compromise text in the Annex to this note.
-

2017/0115 (CNS)

Draft

COUNCIL DIRECTIVE

amending Directive 1999/62/EC on the charging of vehicles for the use of road infrastructures, as regards certain provisions on heavy goods vehicle taxation

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament¹¹,

Having regard to the opinion of the European Economic and Social Committee¹²,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) In its White Paper of 28 March 2011¹³ the Commission set out a goal to move towards the full application of the 'polluter pays' and 'user pays' principles, to generate revenue and ensure financing for future transport investments.
- (2) By nature, annual heavy goods vehicle taxes are unrequited payments linked to the fact that the vehicle is registered on behalf of the taxpayer during a given period and, as such do not reflect any particular use of infrastructure. For similar reasons, heavy goods vehicles taxes are not effective when it comes to incentivising cleaner and more efficient operations, or reducing congestion.

¹¹ OJ C [...], [...], p. [...].

¹² OJ C [...], [...], p. [...].

¹³ White Paper of 28 March 2011 'Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system' (COM(2011) 144 final).

- (3) Tolls, being directly linked to road-use, are considerably better fitted to achieve these objectives. In accordance with Article 7k of Directive 1999/62/EC, Member States which introduce tolls may provide appropriate compensation to national hauliers.
- (4) The application of heavy goods vehicle taxes represents a cost the industry must so far bear in any event, even if tolls were to be levied by Member States. Therefore, heavy goods vehicle taxes may act as an obstacle to the introduction of tolls.
- (5) Consequently, Member States should be afforded more scope to lower heavy goods vehicle taxes, namely by way of a reduction of all minimum tax rates set out in Directive 1999/62/EC to 0 EUR. Without prejudice to this possibility, Member States should be able to keep in force current vehicle taxes imposed on heavy goods vehicles, to replace such taxes with another tax of the same kind or to abolish such taxes and subsequently re-introduce them.
- (6) The reduction of all minimum tax rates set out in Directive 1999/62/EC to 0 EUR does not affect the possibility for Member States to maintain the reduced rates or exemptions granted prior to the adoption of this Directive to any heavy goods vehicle.
- (7) In light of the importance of ensuring the smooth functioning of the internal market, the Commission should assess the reduction of all minimum tax rates set out in Directive 1999/62/EC by 1 January 2030.
- (8) Directive 1999/62/EC should therefore be amended accordingly,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 1999/62/EC is amended as follows:

- (1) the title of Chapter II is replaced by the following:
"Heavy goods vehicle taxation";

(2) Article 3 is amended as follows:

(a) ~~in~~ paragraph 1 **is amended as follows:**

(i) the introductory wording is replaced by the following:

"1. The vehicle taxes imposed on heavy goods vehicles referred to in point (a) of Article 1 are as follows";

(ii) the indent for Croatia is replaced by the following:

“— Croatia:

godišnja naknada za uporabu javnih cesta koja se plaća pri registraciji motornih i priključnih vozila, posebna naknada za okoliš na vozila na motorni pogon,”;

iii) the indent for Slovakia is replaced by the following:

“— Slovakia:

cestná daň, daň z motorových vozidiel,”;

iv) the indent for the United Kingdom is deleted;

(b) paragraph 2 is replaced by the following:

"2. Member States which replace any tax listed in paragraph 1 with another tax of the same kind or abolish a tax listed in paragraph 1 and subsequently introduce a tax of the same kind shall notify the Commission, which shall, where appropriate, submit a legislative proposal to update Article 3(1).";

(c) the following paragraph is added:

"3. Whatever the structure of the taxes referred to above, Member States may set the rates for that tax for each vehicle category or subcategory referred to in Annex I in accordance with the minimum laid down in Annex I";

- (3) Article 6 is replaced by the following:

"Article 6

1. By 1 January 2030, the Commission shall assess the implementation and impact of the provisions of this Directive relating to taxation on heavy goods vehicles. That assessment shall focus on the analysis of the impact of those provisions on the functioning of the internal market.

2. Based on that assessment, the Commission shall, where appropriate, submit a legislative proposal to amend the relevant provisions of this Directive accordingly.";

- (4) in Article 7, paragraph 9, point (c) is replaced by the following:

"(c) any vehicle covered by the conditions below :

(i) it is used for national or civil defence purposes, by fire and other emergency services and by the police, or it is used for road maintenance, or;

(ii) it travels only occasionally on the public roads of the Member State of registration and is used by natural or legal persons whose main occupation is not the carriage of goods, provided that the transport operations carried out by this vehicle does not cause distortions of competition, and subject to the Commission's agreement, or;

(iii) it is used or owned by persons with disabilities; and";

- (5) Annex I of Directive 1999/62/EC is replaced by the text appearing in the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ~~24 March 2025~~ **31 December 2025**. They shall immediately communicate the text of those provisions to the Commission.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.
3. Member States shall apply this Directive from ~~25 March 2025~~ **1 January 2026**.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the Council
The President

ANNEX

“ANNEX I

MINIMUM RATES OF TAX TO BE APPLIED TO HEAVY GOODS VEHICLES

Motor vehicles			
Number of axles and maximum permissible gross laden weight (in tonnes)		Minimum rate of tax (in euro/year)	
Not less than	Less than	Driving axle(s) with air suspension or recognised equivalent ¹⁴	Other driving axle(s) suspension systems
Two axles			
12	13	0	0
13	14	0	0
14	15	0	0
15	18	0	0
Three axles			
15	17	0	0
17	19	0	0
19	21	0	0
21	23	0	0
23	25	0	0
25	26	0	0

¹⁴ Suspension recognised as equivalent in accordance with the definition in Annexe II to Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic (OJ L 235, 17.9.1996, p. 59).

Four axles			
23	25	0	0
25	27	0	0
27	29	0	0
29	31	0	0
31	32	0	0

VEHICLE COMBINATIONS (ARTICULATED VEHICLES AND ROAD TRAINS)			
Number of axles and maximum permissible gross laden weight (in tonnes)		Minimum rate of tax (in euro/year)	
Not less than	Less than	Driving axle(s) with air suspension or recognised equivalent ¹⁵	Other driving axle(s) suspension systems

¹⁵Suspension recognised as equivalent in accordance with the definition in Annex II to Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic (OJ L 235, 17.9.1996, p. 59).

2 + 1 axles			
12	14	0	0
14	16	0	0
16	18	0	0
18	20	0	0
20	22	0	0
22	23	0	0
23	25	0	0
25	28	0	0
2 + 2 axles			
23	25	0	0
25	26	0	0
26	28	0	0
28	29	0	0
29	31	0	0
31	33	0	0
33	36	0	0
36	38	0	0

2 + 3 axles			
36	38	0	0
38	40	0	0
3 + 2 axles			
36	38	0	0
38	40	0	0
40	44	0	0
3 + 3 axles			
36	38	0	0
38	40	0	0
40	44	0	0

”