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WORKING PAPER

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WORKING DOCUMENT

From: To:	General Secretariat of the Council Delegations
N° Cion doc.:	COM (2021) 559 final
Subject:	Proposal for a Regulation on the deployment of alternative fuels infrastructure, and repealing Directive 2014/94/EU (AFIR) - Presidency non-paper on ways forward (articles 3, 4 and 5)

In view of the working party on Transport - Intermodal Questions and Networks of 3 March, delegations will find in the annex a Presidency non-paper presenting a possible way forward for the negotiations with the European Parliament on the above-mentioned articles.

As regards Article 3 and Article 4, the Presidency has reflected on what has been discussed in the previous working party. The Presidency is of the opinion that the crucial aspects are related to the TEN-T coverage.

As regards Article 3, the Presidency also found support for finding a compromise for the fleet-based targets along the lines developed in WK 2304/23. A new compromise is proposed for Article 3(2).

As regards Article 4, the Presidency would like to present a new compromise proposal.

As regards Article 5, the content was discussed in the third trilogue on 28 February and also further discussed in the informal technical meeting with the Parliament on 1 March. What is presented in this non-paper is what the Presidency thinks remains realistic but at the same time accommodating some of the aspects that the Parliament pays great attention too. This entails in particular the customer confidence and the fact that in the development phase we are in at the moment, it will be important to ensure sufficient options for ad hoc charging. That is why it is suggested to go beyond the Council's position when it comes to retrofitting the recharging infrastructure (in the second paragraph), to slightly change the approach for the price components (in the fifth paragraph), and to come back to the signposting (in the ninth paragraph). Delegations will also find updated text for the price monitoring (paragraph 6a), the recitals and a proposal to add the pricing in the review clause (Article 22).

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Article 3

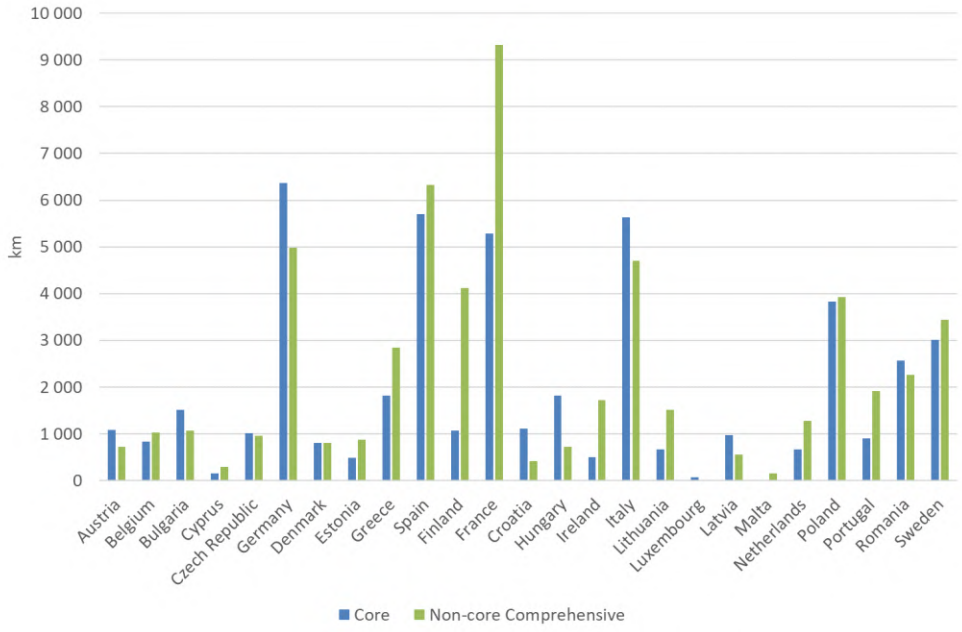
As regards Article 3, the Presidency understands from the discussion in the working party on 24 February, that there is support and willingness to show flexibility in Article 3(1). The Presidency would like to explore a second compromise position for Article 3(2)[1]. The Presidency, at this stage, does not intend to change the thresholds in the derogations.

Article 3(2): territorial coverage (TEN-T)

The presidency would also like to explore the possibilities to propose a compromise for article 3(2) and amend it in line with the concept of article 4 (% of TEN-T), as to accommodate the Parliament's request to also ensure sufficient coverage on the comprehensive network, especially in those Member States where the comprehensive network has a more important function to ensure coverage of the territory.

The resulting installed charging capacity and number of charging point have been calculated based on the length of the TEN-T road network in 25 individual European Member states for year 2021[2]. In total the data corresponds to 47 900 km of TEN-T core road length and 56 000 km of TEN-T comprehensive road length in addition to the TEN-T core.

TEN-T data



For the total installed charging capacity and number of charging points along the TEN-T network it has been assumed that all charging pools are placed with exactly 60 km distance from each other, that each charging pool meets exactly the power requirement per pool and that all charging points are 150 kW. This result in a theoretical minimum charging capacity and number of charging points to fulfil the target. In reality, the charging infrastructure will be placed with a distance less than 60 km and some stations will have a larger capacity than required by the regulation.

[1] All text in italics are identical to the text in WK 2304/2023 and discussed at intermodal working party 24 February

[2] SUPPORT STUDY FOR THE TEN-T POLICY REVIEW, CONCERNING RELEVANT NATIONAL PLANS AND PROGRAMMES IN MEMBER STATES, Annex I – National Factsheet. European Commission Directorate-General for Mobility and Transport. February 2021 (The Commission report did not include data about the TEN-T road network in Slovakia or Slovenia.)

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Council general approach (as in the Commission proposal)

	Core		Comprehensive		Total	
	Distance (km)	Power per pool (kW)	Distance (km)	Power per pool (kW)	Million kW	Charging points
2025	60	300			0,5	3 200
2030	60	600	60	300	1,5	10 100
2035	60	600	60	600	2,1	13 900

The Council general approach is identical to the Commission proposal.

A power output per pool of 450 kW can be upgraded to 600 kW without major difficulties, if the individual charging points (hardware) are prepared for this when installed. An initially lower total power output per charging pool will enable lower operational costs, i.e. grid related cost.

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Compromise proposal 1 (as presented in WK 2304/2023 and discussed at intermodal working party 24 February)

	Core		Comprehensive		Total	
	Distance (km)	Power per pool (kW)	Distance (km)	Power per pool (kW)	Million kW	Charging points
2025 (50%)	60	450	60	300	0,6	4 300
2027 (70%)	60	600	60	300	1,1	7 100
2030	60	600	60	300	1,5	10 100
2035	60	600	60	600	2,1	13 900

The total power output (million kW) and the number of charging points for 2025 and 2027 is calculated based on an even distribution between TEN-T core and comprehensive and that the distance between two adjacent charging pools never exceeds 60 km. The target for 2025 gives Member States a higher flexibility regarding the location of the charging pools. It is likely that the majority of charging pools will be built on the sections of TEN-T with the highest traffic flows, probably TEN-T core. However, 50% of the TEN-T network corresponds to 52 000 km which is slightly higher than the 47 900 km of TEN-T core network. This results in approximately 3 500 individual charging points for the compromise proposal compared with the Council general approach of 3 200 individual charging points.

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The calculation of the percentage of the length of TEN-T network referred to above needs to be calculated by the same principles as described in Article 4(1a)[3]. The distance used should be 60 km for both the TEN-T core and comprehensive network.

In compromise proposal 2 the 2025 targets only include the TEN-T core as in the Council general approach. Targets for TEN-T comprehensive is introduced, with a 50% coverage, in 2027 and full coverage in 2030 as in Council general approach.

The calculation of the percentage of the length of TEN-T comprehensive network in 2027 referred to above needs to be calculated by the same principles as described in Article 4(1a). The distance used should be 60 km for the TEN-T comprehensive network.

Compromise proposal 2

	Core		Comprehensive		Total	
	Distance (km)	Power per pool (kW)	Distance (km)	Power per pool (kW)	Million kW	Charging points
2025	60	450			0,7	4 800
2027	60	600	60 (50%)	300	1,2	8 300
2030	60	600	60	300	1,5	10 100
2035	60	600	60	600	2,1	13 900

[3] Line 167a to 167d in the four column document

Article 4[4]

The presidency would also like to explore the possibilities to propose a compromise proposal for article 4(1) to be able to meet European Parliaments proposals. The installed charging capacity and number of charging point have been calculated based on the same TEN-T data as presented under article 3 above. For the number of charging points it has been assumed that all charging point are 350 kW.

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Commission proposal

	Core		*Comprehensive*		*Total*	
	Distance (km)	*Power per pool (kW)*	*Distance (km)*	*Power per pool (kW)*	*Million kW*	*Charging points*
2025	*60*	*1 400*			*2,2*	*6 400*
2030	*60*	*3 500*	*100*	*1 400*	*7,2*	*20 400*
2035	*60*	*3 500*	*100*	*3 500*	*9,5*	*27 200*

Council general approach

	Core		*Comprehensive*		*Total*	
	Distance (km)	*Power per pool (kW)*	*Distance (km)*	*Distance (km)*	*Million kW*	*Charging points*
2025 (15%)	*120*	*1 400*	*120*	*1 400*	*0,4*	*1 000*
2027 (40%)	*120*	*2 800*	*120*	*1 400*	*1,4*	*4 000*
2030	*60*	*3 500*	*100*	*1 400*	*7,2*	*20 400*

Targets beyond 2030 should be set when the Regulation will be reviewed.

The total power output (million kW) and the number of charging points for 2025 and 2027 is calculated based on an even distribution between TEN-T core and comprehensive and that the distance between two adjacent charging pools never exceed 120 km. During the initial introduction of electric heavy duty vehicles, the majority of charging pools are likely to be built on the sections of TEN-T with the highest traffic flows, probably TEN-T core. It is also likely that some charging pools will be placed further apart than 120 km, thus do not count towards the target. This will result in a higher number of charging pools than indicated in the table in order to fulfil the target.

[4] All text in italics are identical to the text in WK 2304/2023 and discussed at intermodal working party 24 February

In the new compromise proposal, the 2025 targets follows the Council general approach. For 2027 the coverage has been increased from 40% as in the Council general approach to 50%.

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New compromise proposal

	Core		Comprehensive		Total	
	Distance (km)	Power per pool (kW)	Distance (km)	Power per pool (kW)	Million kW	Charging points
2025 (15%)	120	1 400	120	1 400	0,4	1 000
2027 (50%)	120	2 800	120	1 400	1,8	5 100
2030	60	4 200	100	2 000	8,9	25 600

Article 5

As regards Article 5, the Presidency would like delegations to consider the following position[5].

- The Parliament can accept the payment methods in paragraph 2, as presented in the 4th column (lines 180 to 187). The Parliament can also accept lines 188a to 191, 196, 197, 198, 200 and 201, and can also accept not to include their amendments in lines 196b, 198a, 198b, 198c, 199a, 201a and 201b.

- As regards the retrofitting in paragraph (2), the Presidency would consider to offer to the Parliament a retrofitting for all fast chargers (equal to or more than 50 kW) on and along the TEN-T network, including the safe and secure parking areas.
This should also be a good argument to maintain the 3 km distance in the definition of 'along the TEN-T network' (definition (2a), line 75a), where the Parliament so far insists on its position (1,5 km).

Article 5(2), third subparagraph (line 188)

From 1 January 2027 onwards, operators of recharging points shall ensure that all publicly accessible recharging points **installed on and along the TEN-T road network and installed on a safe and secure parking area** operated by them, including those points deployed before the date of application referred to in Article 24~~, that meet the requirements set out in Article 3(2)~~ and have a power output equal to or more than 50 kW, comply with the requirements set out in points (a) or (b).

- As regards the price components in paragraph (5), the Parliament would agree that there are different price components, but would like to stress that the most important component is related to the electricity that is provided and expressed in kW. The Presidency did explain that from a cost-efficiency perspective, it is important to keep the differentiation between making the price components available (at those chargers of less than 50 kW) and showing the price components (at those chargers equal to or more than 50 kW).

Article 5(5), first subparagraph (line 192)

Operators of recharging points shall clearly make the information on the ad hoc price**, including all its price components,** available at all publicly accessible recharging stations operated by them so that this information is known to end users before they initiate a recharging session **and facilitates price comparison**. ~~This information shall include all~~ **The following** price components**, if applicable at the recharging station shall be presented in the following order:** ~~charged by the operator to calculate the price of a recharging session such as price per session, price per minute or price per kWh.~~

- price per kWh;
- price per minute;
- price per session and
- any other price component(s) that may apply.

The information shall also clearly indicate the maximum power output that this recharging point could provide.

[5] All drafting suggestions presented are based on the text in the 4-column document (annexed to ST 5597/23). Changes are compared to the text of the general approach (3rd column) and marked for **new text** is in bold underlined and ~~deleted text~~ in strikethrough.

- The Parliament would like to clarify in AFIR that after the recharging session, the charge point operator would also be able to charge a parking fee, if the user decides not to move his vehicle after the battery would be fully recharged. While the Presidency has explained this, the Parliament finds it conceptually difficult to consider such a parking fee under 'any other price component(s) that may apply'. Work is ongoing on a solution that could accommodate both sides.
The chargers for 'showing' the price components would remain those referred to in the third subparagraph of paragraph 2. The Parliament also proposes to add some wording, clarifying the idea of the price setting.

Article 5(5), second subparagraph (line 192a) - unchanged

With respect to publicly accessible recharging points with a power output equal to or more than 50 kW, deployed from the date of application referred to in Article 24 and with respect to those recharging points referred to in the third subparagraph of paragraph 2, this information shall be clearly shown at the recharging station **and the price for the recharging session shall be based on the electricity delivered to the end user**.

- As regards the price monitoring in paragraph 6a, there have been some further drafting suggestions made, in particular to consider legal issues.

Article 5(6a) (line 196a)

Member States shall ensure that their ~~national competent~~ authorities, ~~in the exercise of their prerogatives~~ **within the limits of the powers conferred on them and without prejudice to the powers of the Commission**, regularly monitor the recharging market ~~with the overall objective of safeguarding competition on the market and consumer rights. This includes~~**, in particular** monitor~~ing of~~ compliance of operators of recharging points and mobility service providers with paragraphs 4 and 6**,** and **endeavour to monitor** ~~of~~ possible unfair **commercial** practices ~~that~~ affect**ing** consumers**.**~~, including in relation to the prices set for the use of publicly accessible charging points, such as price gouging.~~

- As regards the signposting in paragraph (9), the Parliament does find it important to provide for signposting within parking and rest areas, but would accept not to pursue signposting along the road network. The Presidency finds it reasonable to come back to the Commission proposal on this aspect. It should, in the end, not be too cumbersome or expensive to take care of this. It will help customers to find their way.

Article 5(9) (line 199)

Member States shall take the necessary measures to ensure that appropriate signposting is deployed within parking and rest areas on the TEN-T road network where alternative fuels infrastructure is installed, to enable easy identification of the exact location of the alternative fuels infrastructure.

- Parliament also suggests to add the aspect of pricing in the review clause (Article 22)

Article 22 (line 348d)

(x) **the functioning of the pricing mechanism for publicly accessible recharging stations and whether the pricing components laid down in Article 5 provide consumers with sufficient and clear information about the electricity delivered to the end user (price per kWh) and the estimated cost prior to the start of the recharging session.**

Finally, in line with the proposed changes to Article 5, the following changes would be made in the recitals.

Recital 24 (line 34)

Price transparency is crucial to ensure seamless and easy recharging and refuelling. Users of alternative fuel vehicles should– be given accurate price information before the start of the recharging or refuelling service. The price should be communicated in a clearly structured manner to allow end users to identify the different price components charged by the operator to calculate the price of a recharging session and anticipate the total cost **and the electricity to be delivered**. This requirement should be without prejudice to the right of Member States to determine the applicable unit price of the electricity recharged from a charging station in accordance with Directive 98/6/EC.

Recital 25 (line 35)

New services emerge in support of the use of electric vehicles and offer a basis for the development of grid integration services. Incentives provided by Member states as well as binding measures **adopted by Member States** such as mandatory roaming capability on designated recharging points have played a significant role in the development of **these new** ~~such~~ services. Entities offering those services, such as mobility service providers, should be able to operate under fair market conditions. In particular, operators of recharging points should not give unduly preferential treatment to any of those service providers, for instance through unjustified price differentiation that may impede competition and ultimately lead to higher prices for consumers. **Prices charged by operators and mobility service providers should be transparent, easily and clearly comparable and non-discriminatory. They should also be reasonable, not exceeding incurred costs and a reasonable profit. Laying down requirements on operators and mobility service providers would provide guarantees and predictability to consumers and thus contribute to ensuring confidence during the initial stages of uptake of electric mobility and encourage the rapid take-up of battery-electric and fuel-cell electric vehicles, which is essential for the achievement of the increased climate ambition of the Union and the European Green Deal. In order to ensure such transition and that users of such vehicles can easily and without any hinderance use recharging and refuelling infrastructure everywhere in the Union.** ~~The Commission~~ **Member States** should monitor the development of the recharging market. When reviewing the Regulation, the Commission will take actions where required by market developments such as limitations of services for end users**, services misguiding consumers and hampering price transparency,** or business practices that may limit competition.

Recital 31a (line 41a) – new recital (on safety issues) (so not to need and include the EP amendments in lines 201a and 201b)

The safety and security of users, particularly at unattended charging stations, may be addressed, by equipping the charging stations with emergency buttons, displaying emergency services contact information, ensuring adequate lighting or any other appropriate measures.