

SENATE OF THE REPUBLIC
XVIIth PARLIAMENTARY TERM

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RESOLUTION OF STANDING COMMITTEE No 8
((Public works, communications))

(Rapporteur: FILIPPI)

ON THE

**PROPOSAL FOR A 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 (COM(2016) 31 FINAL)**

adopted at the morning session of 9 March 2016

pursuant to Article 144(1) and (6) of the Rules of Procedure

Forwarded to the Prime Minister's Office on 15 March 2016

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The Committee,

having examined, pursuant to Article 144 of the Rules of Procedure, EU document COM(2016) 31 final on the proposal for a 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, which was submitted for our reasoned opinion on subsidiarity,

whereas:

the proposal concerns the European legal framework for the approval of motor vehicles and their trailers and the surveillance of that market, which is currently regulated by Directive 2007/45/EC of the European Parliament and of the Council of 5 September 2007;

the CARS 2020 action plan for a competitive and sustainable European car industry saw the launch, some years ago, of reflections at European level about the suitability of the aforesaid current legislation with regard to the goal of facilitating the free movement of motor vehicles in the internal market while simultaneously ensuring compliance with common environmental and safety measures: what emerged from this was a positive assessment with regard to the functioning of the internal market and competition, while there was a recognition that the differences in the Member States' interpretation and application of the rules on type-approval and controls have in practice reduced their effectiveness;

those limits became more than obvious after the Volkswagen scandal broke , following which the Commission announced that it would strengthen the type-approval system, putting in place better and harmonised control mechanisms;

in line with that objective the proposal under consideration accordingly seeks to revise the current European legislation in order to close its loopholes and ensure an enhanced level of protection for the health of citizens and for the environment by strengthening controls over the procedures and those carrying them out during both the *ex ante* verification stage (approval) and the *ex post* control stage (market surveillance);

to that end, the proposal redefines the system for the traceability of products (motor vehicles for the transport of persons and goods, their trailers and systems, components and separate technical units relating to them); the role and responsibilities of economic operators in the logistics chain; the responsibilities of and cooperation between the different national authorities involved; the quality of the type-approval and conformity assessment activities carried out by technical services; corrective measures after vehicles are placed on the market and those for their withdrawal or recall; the procedures for ensuring conformity of production; the supervision and coordination of approval and market surveillance activities;

having regard to the information in the Government report issued pursuant to Article 6(4) and (5) of Law No 234 of 24 December 2012;

having regard, in addition, to the comments made by Committee No 14;

whereas the legal basis of the proposal under consideration is correctly identified as Article 114 of the Treaty on the Functioning of the European Union (TFEU) on the establishment and functioning of the internal market;

hereby expresses, pursuant to Protocol No 2 to the TFEU on the application of the principles of subsidiarity and proportionality:

a favourable opinion with regard to compliance with the principle of subsidiarity, in that action at European Union level meets both the requirement of necessity and that of added value by comparison with action by individual States. Action by the European Union is actually essential for maintaining a level playing field in the Member States for the movement of goods in general and, in this case, for the harmonised interpretation, implementation and enforcement of the type-approval requirements for motor vehicles, backed up by uniform provisions on market surveillance.

It is also clear that, given the interdependence between the various countries in the European Union, differences in the national organisation of type-approval and market surveillance in the Member States may give rise to non-harmonised enforcement and weaknesses in enforcement by one single Member State can seriously undermine the efforts made by other Member States to prevent non-compliant products entering their markets;

a favourable opinion with regard to compliance with the principle of proportionality, in that the proposal is consistent with the objectives that it seeks to attain. It does not, in fact, go beyond what is necessary to ensure the proper functioning of the internal market and, at the same time, a high level of public safety and environmental protection.

In that sense, the choice of a regulation should be deemed appropriate, being directly applicable, and bearing in mind the fact that the measures proposed to strengthen and further harmonise the enforcement of approval procedures – based on the principles of the common framework for the marketing of products referred to in Annex I to Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 – have been adapted to the specific features of the automotive sector;

also expresses a favourable opinion on the substantive elements that are relevant in the context of political dialogue with the European Union institutions, with the following comments:

the objectives of the proposal for a regulation can be wholeheartedly endorsed; it seeks to strengthen the procedures for the type-approval and market surveillance of motor vehicles and their trailers by means of stronger controls and cross-checks;

recommends, for the purpose of negotiation, the adoption of any beneficial initiatives seeking to reduce polluting vehicle emissions even further and to increase the use of cleaner sources of fuel;

in order to identify appropriate legislative arrangements, attention is drawn to the particular situation in Italy, where technical services are carried out by vehicle test centres (CPAs – *centri prova autoveicoli*) belonging to the Ministry of Infrastructure and Transport, i.e. State bodies which would be affected by the new responsibilities assigned to the European Commission with regard to the possibility of checking and penalising the activities of the technical approval services and to evaluate the activities of the national approval authorities;

those circumstances should also be taken into account in connection with the establishment, at national level, of an appropriate fee structure making it possible to cover the further costs arising from the type-approval and market surveillance activities and the various controls entrusted to national technical services and to the European Commission;

finally, the Committee highlights the need for coordination between Article 72(2) of the proposal, which states that '[a] Member State may designate an approval authority as a technical service', provided that it serves a purpose by safeguarding the specific nature of national provisions, and Article 71(4), under which '[t]he type-approval authority shall not perform any activities that technical services perform'; this appears to contradict the former provision outright.

This document is to be understood as guidance to the Government within the meaning of Article 7 of Law No 234 of 24 December 2012.

OPINION OF STANDING COMMITTEE No 14
(EUROPEAN UNION POLICIES)

(Rapporteur: LIUZZI)

8 March 2016

Committee No 14, having examined the document,

whereas:

the proposal is intended to revise the legal framework for the type-approval of motor vehicles and their trailers, which is currently laid down by Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007. That legislation is intended to facilitate the free movement of motor vehicles and trailers by means of harmonised provisions designed to achieve common environmental and safety objectives;

following the commitments made with the CARS 2020 action plan for a competitive and sustainable European car industry, the EU type-approval framework for motor vehicles was the subject of a fitness check in 2013 and it was recognised that differences in interpretation and strictness in application of the requirements across Member States are reducing its effectiveness. In this connection, the European Commission considered that it had to focus on: the introduction of market surveillance provisions to complement the type-approval requirements; the clarification of the recall and safeguard procedures, as well as the conditions for granting extensions to approvals for existing types of vehicle; improving the enforcement of the type-approval framework by harmonising and enhancing the type-approval and conformity of production procedures applied by Member State authorities and technical services; clarification of the roles and responsibilities of economic operators in the supply chain, and of the authorities and parties involved in the enforcement of the framework; improving the suitability of alternative type-approval schemes (national small series and individual approvals) and of the multi-stage type-approval process to provide appropriate flexibility for niche markets and small and medium-sized enterprises (SMEs) without, however, distorting the level playing field;

subsequently, following the Volkswagen case, the European Commission took steps to strengthen the type-approval system, in particular to provide appropriate control mechanisms to ensure the proper and harmonised application of type-approval procedures;

the revision proposed by document in question aims to overcome various flaws and gaps which have emerged, such as the lack of surveillance of those responsible for the satisfactory operation of the mechanism for *ex ante* conformity checks (type-approval), and the absence of an effective mechanism for *ex post* checks (market surveillance). In

this way it will be possible to restore the public's trust in the capability of the regulatory system to ensure an adequate level of protection of health and the environment;

more specifically, the proposal in question includes measures concerning: the traceability of products (motor vehicles for the transport of persons and goods, their trailers and systems, components and separate technical units relating to them); the role and responsibilities of economic operators in the supply chain; the responsibilities of and cooperation between the different national authorities involved in the enforcement of the technical harmonisation legislation for motor vehicles; the quality of the type-approval and conformity assessment activities carried out by technical services; post-market safeguard procedures and the provisions for the recall of vehicles; the procedures for ensuring conformity of production; the supervision and coordination of approval and market surveillance activities;

having evaluated the Government report forwarded pursuant to Article 6(4) and (5) of Law No 234 of 24 December 2012;

hereby issues a favourable opinion, within its area of competence, highlighting the following points:

finds that the proposal's legal basis, identified as Article 114 of the Treaty on the Functioning of the European Union (TFEU) on the establishment and functioning of the internal market, is correct;

considers that the principle of subsidiarity is complied with, since the internal market for goods justifies action at European level concerning the harmonised interpretation, implementation and enforcement of the type-approval requirements for motor vehicles, backed up by uniform provisions on market surveillance.

In this context, the differences in the national organisation of type-approval and market surveillance in the Member States may give rise to enforcement which varies and is therefore likely to produce disparities in treatment, and thus undermine the efforts made by the Member States to check the conformity of products with the European legislation.

The two parameters for ascertaining compliance with the principle of subsidiarity, i.e. the need for European action and its added value, are therefore valid.

Furthermore, the choice of a regulation to replace the current Directive 2007/46/EC appears appropriate, since by its nature it does not require national implementing legislation, being directly applicable;

the principle of proportionality is complied with in that the provisions of Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on the common framework for the marketing of products, and in particular the provisions governing the products referred to in Annex I to that Decision, have been adapted to the specific features of the automotive sector;

regarding the substance, the Committee fully endorses the action taken by the European Commission with the proposal in question, which seeks to strengthen the procedures for

the type-approval and market surveillance of motor vehicles and their trailers by means of stronger controls and cross-checks.

Recommends the adoption, during negotiations, of any beneficial initiatives seeking to reduce polluting vehicle emissions even further and to make use of cleaner sources of fuel.

At the same time, it must be pointed out – in order to find appropriate legislative arrangements – that there is a particular situation in Italy, where technical services are carried out by vehicle test centres (CPAs – *centri prova autoveicoli*) belonging to the Ministry of Infrastructure and Transport, i.e. State bodies which would be affected by the new responsibilities assigned to the European Commission with regard to the possibility of checking and penalising the activities of the technical approval services and to evaluate the activities of the national approval authorities.

With this in mind, while Article 72(2) of the proposal, under which '[a] Member State may designate an approval authority as a technical service', serves a purpose by safeguarding the specific nature of national provisions, the same cannot be said for Article 71(4), on the basis of which '[t]he type-approval authority shall not perform any activities that technical services perform'; the latter thus appears to contradict the former.