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Roadworthiness Package

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Council Directive 1999/37/EC on the registration documents for vehicles

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- Grounds for and objectives of the proposal

The objective of the 'Roadworthiness Package' is to support and to enforce roadworthiness testing of motor vehicles and their trailers with a view to enhance road safety and environmental protection.

The proposal aims at contributing to reach the target of a reduction of road fatalities by the half until 2020 as laid down in the Policy Orientations on Road Safety 2011-2020¹. It will also contribute to the reduction of emissions in road transport linked to poor maintenance of vehicles.

In this context the proposal aims at improving the enforcement of the roadworthiness testing and roadside inspection regime, notably in the case where the technical condition of a vehicle creates an imminent risk to road safety, through measures such as temporary withdrawal or permanent cancellation of the vehicle's registration.

- General context

Before a vehicle is allowed to be put on the market, it has to fulfil all the relevant type or individual approval requirements guaranteeing an optimal level of safety and environmental standards. Every Member State has the obligation to register for the first time any vehicle that received the European type-approval on the basis of the "Certificate of Conformity" issued by the vehicle manufacturer. This registration is the official authorisation for the use on public roads and enforces the different introduction dates of different vehicles' requirements.

Following this approval, cars on the road have to be regularly submitted to periodic roadworthiness tests. The aim of these tests is to ensure that cars on the road remain roadworthy, safe and do not pose any danger to the driver and other road users. Cars are therefore checked for compliance with certain requirements, such as those for safety and environmental protection, as well as for retrofitting requirements. Because of their regular and intensive use mainly for commercial purposes, vehicles used for the professional transport of goods with a laden mass above 3.5 tonnes and for the professional transport of passengers of more than 8 passengers are additionally subject to ad hoc technical roadside inspections by which their compliance with environmental and technical requirements is verified at anytime and anywhere in the EU.

During a vehicle's lifetime it may be subject to re-registration, due to a change of ownership, or a transfer to another Member State for permanent use. Provisions on a vehicle registration procedure should be similarly introduced to ensure that vehicles which constitute an immediate risk to road safety are not used on roads.

¹ COM(2010)389 final.

The goal of vehicle registration is to authorise the entry into service – the use – of a vehicle in road traffic. This authorisation is rendered visible by the attachment of the registration number plate to the vehicle and the issuing of a registration certificate.

- Existing provisions in the area of the proposal

The proposal will amend the existing requirements laid down in the existing legislative framework related to the registration documents for vehicles².

Compared to the existing act, the proposal provides for more precise definitions on the place of registration of vehicles, withdrawal and cancellation of registrations. The proposal also lays down new requirements on electronic vehicle registration registers and the follow up of notifications related to roadworthiness test results, re-registration and destruction of vehicles.

- Consistency with the other policies and objectives of the Union

The proposal is consistent with the EU objective to make roads safer as outlined in the White Paper on Transport³ and aims at implementing the specific strategy related to safer vehicles within the Road Safety Orientations 2011-2020.

Finally, the proposal is consistent with the recommendations related to the re-launch of the Single Market policy as provided by the Monti Report of May 2010⁴ in the field of reduction of administrative obstacles for cross-border movement of second hand cars.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

- Consultation of interested parties

Consultation methods

In developing the proposal of the roadworthiness package the Commission has consulted stakeholders in a number of ways:

- There was a general internet consultation, covering all aspects of the proposal
- Experts and stakeholders have been consulted within workshops
- A study on future options for roadworthiness enforcement in the European Union has been carried out to identify possible measures and to elaborate a cost benefit analysis tool related to the effects of roadworthiness testing

Summary of responses and how they have been taken into account

² Council Directive 1999/37/EC of 29 April 1999 on the registration documents for vehicles, as amended.

³ COM(2011)144 final.

⁴ http://ec.europa.eu/internal_market/strategy/docs/monti_report_final_10_05_2010_en.pdf.

During the internet consultation, several issues were raised by stakeholders. The impact assessment that accompanies this proposal provides a full account of the substantive issues raised and discusses how they have been taken into consideration.

An open consultation was conducted over the internet from 29/7/2010 to 24/9/2010. The Commission received 9,653 responses from citizens, Member State authorities, equipment suppliers, test centres, garage associations and vehicle manufacturers.

The results are available on http://ec.europa.eu/transport/road_safety/take-part/public-consultations/pti_en.htm.

- Collection and use of expertise

Scientific/expertise domains concerned

The proposal required the assessment of different policy options as well as the associated economic, societal and environmental impacts.

Methodology used

A study on the impacts of the different policy options has been performed by an external consultant (Europe Economics) using several scientific and evaluation reports, notably as sources of models and data for the monetization of the costs and benefits of the different policy options. Most extensively used studies include the following:

- The Report from the Commission to the Council and the European Parliament on the application by the Member States of Directive 2000/30/EC of the European Parliament and of the Council of 6 June 2000 on the technical roadside inspections of the roadworthiness of commercial vehicles circulating in the community - Reporting periods 2005–2006 and 2007–2008 (COM(2010) 754 final,
- AUTOFORE (2007)
- "MOT Scheme Evidence-base" Department of Transport (UK, 2008),
- DEKRA Road Safety Report 2008 – Strategies for preventing accidents on Europe's roads,
- DEKRA Road Safety Report on Trucks 2009,
- DEKRA Motorcycle road safety report 2010,
- TÜV Reports 2009 / 2010.

Means used to make the expert advice publicly available

All completed and approved research reports are or will be available on the DG Mobility and Transport website

- Impact assessment

For the main aspects of the proposal the following options were considered:

- (a) The 'No policy change' approach provides the reference case against which the effects of other policy options are compared. Within this option, the present EU legal framework for would be maintained. Also, there would be no short-term adaptation of the technical annex of Directive 2009/40/EC, since the annex has been recently amended through comitology (with Directive 2010/48/EU). The scope and frequency of roadworthiness tests will therefore not change, and no further measures related to the exchange of information will be adopted. The absence of a framework for exchanging data will persist.
- (b) The "Soft law approach" would consist in a better implementation and better monitoring of the application of existing legislation. This option would not introduce new legislation, but there would be new and increased efforts by the Commission to improve the standards of testing and enforcement, as well as actions to incentivise the exchange of data.
- (c) The "Legislative approach" would be based on two components.
- In order to meet the specific objective to enhance the safety of vehicles on the road, the first component is to revise upwards the minimum EU standards for periodic roadworthiness tests (PTI) and unexpected roadside inspections (RSI) and define mandatory standards. This is essential to avoid that gaps in the system reduce the effectiveness of roadworthiness enforcement as a whole.
 - In order to meet the specific objective of making the necessary data for and from roadworthiness testing available, a second component of the overall regime would include, in a second phase, the possible establishment of an EU harmonised data exchange system linking the existing databases with a view to improve the efficiency of the implementation of the EU roadworthiness package.

3. LEGAL ELEMENTS OF THE PROPOSAL

- Summary of the proposed action

The proposal defines the withdrawal and cancellation of registrations.

This measure ensures that vehicles which constitute an immediate risk to road safety due to dangerous defects are not allowed on the road by withdrawing their registration until another roadworthiness test has been passed successfully. To reduce administrative burden, it should not be necessary to go through the process of registration when the withdrawal is lifted again.

Furthermore the proposal introduces a degree of automatism whereby the original registration of vehicles which have been re-registered in another Member State are automatically cancelled. This avoids the existence parallel registrations per vehicle in different Member States. The obligation to perform periodical roadworthiness tests is linked to the Member State of registration. Therefore the existence of parallel registrations per vehicle in different Member States would result in an obligation to undergo roadworthiness tests in these different Member States.

Registrations of vehicles that following a periodic roadworthiness test would need to be scrapped and those notified as 'end of life vehicle' shall be cancelled following its notification.

The proposal also introduces the establishment of electronic registration registers containing all information related to the vehicle registration. This information will be made accessible for the purpose of roadworthiness testing as only a part of this information is printed on the registration certificates. The register provides for the follow-up to be taken after notification of roadworthiness test results, re-registration and destruction of a vehicle.

The Commission shall be empowered to update the annexes taking into account the evolution of the EU type-approval legislation in relation with the content of certificates of conformity as well as technical progress via delegated acts.

- Legal basis

The legal basis of the proposal is Article 91 of the Treaty on the Functioning of the European Union.

- Subsidiarity principle

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Union.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reason: existing requirements are implemented in different way by Member States with a high discrepancy in enforcement of the roadworthiness testing and roadside inspection regime with negative impacts both on road safety but also on the internal market. A future seamless flow of information between Member States on vehicle registration requires the existence of registration registers with a harmonised content in all Member States.

The proposal therefore complies with the subsidiarity principle.

- Proportionality principle

The proposal complies with the proportionality principle for the following reasons.

As showed in the impact assessment, the proposal complies with the proportionality principle because it does not go beyond what is necessary in order to achieve the objectives related to the increase of road safety and environmental protection by enforcing a roadworthiness regime and creation of the appropriate framework for seamless flow of information.

- Choice of instrument

Proposed instruments: Amendment of existing Directive.

The use of an amendment to the existing Directive is considered to be appropriate.

4. BUDGETARY IMPLICATION

The proposal has no implication on the Union budget.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Directive 1999/37/EC on the registration documents for vehicles

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 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 Economic and Social Committee⁵,

Having regard to the opinion of the Committee of the Regions⁶,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Roadworthiness testing is a part of a wider regime ensuring that vehicles are kept in a safe and environmentally acceptable condition during their use. This regime should cover periodic roadworthiness tests for all vehicles and roadside technical inspection for vehicles used for commercial road transport activities as well as provisions on a vehicle registration procedure to ensure that vehicles which constitute an immediate risk to road safety are not used on roads.
- (2) Registration of a vehicle provides for its use on public roads. Directive 1999/37/EC of 29 April 1999 on the registration documents for vehicles⁷ only applies to the granting of a registration for vehicles. Nevertheless, especially in cases where the use of the vehicle on public roads would create a risk, due to the technical situation of the vehicle, it should be possible to withdraw the registration for a certain period of time. To reduce the administrative burden resulting from a withdrawal of the registration, it should not be necessary to go through the process of registration when the withdrawal is lifted again.

⁵ OJ C, p.

⁶ OJ C, p.

⁷ OJ L 138 of 1.6.1999, p.57.

- (3) The possibility of cancelling a registration of a vehicle in cases where inter alia a vehicle has been re-registered in another Member State or dismantled and scrapped should be introduced.
- (4) To reduce administrative burdens and ease the exchange of information between Member States, vehicle related information should be kept in national registers.
- (5) In cases where dangerous deficiencies have been found during a roadworthiness test, the registration should be withdrawn by the competent authorities until the vehicle has passed a new roadworthiness test.
- (6) In order to supplement this Directive with further technical details, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission with a view to update the annexes, taking into account the evolution of the EU type-approval legislation in relation to the content of certificates of conformity as well as technical progress. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (7) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 1999/37/EC is amended as follows:

1. The provisions of paragraph 1 of Article 1 are replaced by the following :

"This Directive shall apply to the registration documents for vehicles used by the Member States".

2. The following points are added to Article 2:

"(e) 'withdrawal of a registration': shall mean a limited period of time in which the vehicle is not authorised to be used in road traffic, not involving a new process of registration;

(f) 'cancellation of a registration': shall mean a permanent cancellation of the authorisation for the vehicle to be used in road traffic, involving a new process of registration."

3. The following paragraph is added to Article 3:

"4. Member States shall keep the data on all vehicles registered on their territory in an electronic register. The data in this register shall contain all elements in accordance with Annex I as well as the results of mandatory roadworthiness tests in accordance with Regulation XX/XX/XX [on periodic roadworthiness tests]. They shall make the technical data on vehicles available to the competent authorities or testing centres involved in roadworthiness testing."

3. The following Article is inserted:

"Article 3a

1. In case that a Member States registration authority receives a notification of a roadworthiness test showing that the vehicle has been assessed with dangerous deficiencies in accordance with Article 7 of Regulation XX/XX/XX [on periodic roadworthiness tests], the registration shall be withdrawn and an additional roadworthiness test shall be carried out.

The withdrawal shall be effective until the vehicle has passed a new roadworthiness test. On successful completion of the roadworthiness test, the registration authority shall without delay re-authorise the use of the vehicle in road traffic.

2. In case that a Member State registration authority receives a notification that a vehicle has been treated as an end-of-life vehicle in accordance with Directive 2000/53/EC⁸ the registration shall be cancelled and this information shall be added to its electronic register."

4. The following paragraph is added to Article 5:

"3. In case that a Member States receives a notification that a vehicle has been re-registered in an other Member State, it shall cancel the registration of this vehicle on its territory."

5. Article 6 and 7 are replaced by the following :

"Article 6
Delegated acts

The Commission shall be empowered to adopt delegated acts in accordance with Article 7 with a view to adapt the Annexes in the light of technical progress.

⁸ OJ L 269 of 21.10.2000, p. 34.

Article 7
Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 6 shall be conferred for an indeterminate period of time from the date of entry into force of this Regulation.
3. The delegation of powers referred to in Article 6 may be revoked at any time by the European Parliament or by the Council. A revocation decision shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 6 shall enter into force only if no objection has been expressed by either the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council."

Article 2
Transposition

1. Member States shall adopt and publish, by [XXXX] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall without delay communicate to the Commission the text of those provisions.

They shall apply those provisions [36 months after the entry into force of this Directive].

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.

Article 3
Entry into force

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
Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President