

Newsletter

January – March 2020

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Parliament welcomes European Green Deal

After the new European Commission under Commission President von der Leyen presented the European Green Deal on 11 December (for detailed information on the European Green Deal, [click here](#)), the European Parliament (EP) adopted a resolution on the European Green Deal on 15 January 2020. On the whole, MEPs welcome the deal. In particular, they welcome the ambitious sustainable investment plan, which should help to close existing investment gaps. However, they also call for an adequately funded, fair transition mechanism.

MEPs also see room for improvement in the ambitions for the EU's emission reduction target for 2030 under the forthcoming climate change law. They call for an increase in the reduction from 50 per cent to 55 per cent compared to 1990 levels and for an interim target for 2040 to be introduced to ensure that the EU is on track to achieve climate neutrality by 2050. To prevent carbon leakage due to differing climate targets around the world, the European Parliament calls for a WTO-compatible mechanism for adjusting CO2 limits.

MEPs stress that they will adapt all legislative proposals to achieve the Green Deal objectives. Higher energy efficiency and renewable energy targets, including binding national targets for each member state, and a revision of other EU climate and energy legislation are needed by June 2021, they add.

The European Parliament also welcomed the Commission's intention to present a zero-pollution action plan, but also called for the Commission to “to raise the level of protection of the quality of our air, in line with latest scientific findings and the World Health Organisation (WHO) guidelines” and “better monitoring of air pollution in Member States through the implementation of robust and harmonised measurement methods”.

In the resolution, the European Parliament also welcomes all the plans envisaged by the

Commission that are directly related to road transport. In particular, the focus on the development of intermodal transport concepts is well received.

The resolution was adopted with 482 votes in favour, 136 against and 95 abstentions.

In the meantime, the Commission has also published its work plan for 2020. This plan emphasises the centrality of the UN sustainability goals and the priority of the new climate law.

Further Links:

- [Resolution of the European Parliament](#)

Commission proposes European climate law

On 4 March 2020, the European Commission proposed a new climate law to enshrine in legislation the EU's political commitment to be climate-neutral by 2050. The European climate law sets the 2050 target and the direction for all EU policies, making them predictable for public authorities, businesses and citizens. At the same time, the Commission is launching a public consultation on the future European Climate Pact. This consultation will involve the public in shaping this instrument.

Based on a comprehensive impact assessment, the Commission will propose a new EU target for reducing greenhouse gas emissions by 2030. This part of the legislation will be amended once the impact assessment is completed.

By June 2021, the Commission will review all relevant policy instruments and, if appropriate, propose a revision to achieve the additional emission reductions for 2030.

The Commission proposes the adoption of an EU-wide trajectory for reducing greenhouse gas emissions over the period 2030-2050 to measure progress and provide predictability for public authorities, businesses and citizens.

By September 2023, and every five years thereafter, the Commission will assess the compatibility of EU and national measures with

the objective of climate neutrality and the 2030-2050 trajectory.

The Commission will have the power to make recommendations to Member States whose measures are not compatible with the objective of climate neutrality, and Member States will be obliged to take due account of these recommendations or explain their reasons if they do not do so.

Member States will also be required to develop and implement adaptation strategies to strengthen resilience and reduce vulnerability to the impacts of climate change.

In accordance with the ordinary legislative procedure, the proposal will now be transmitted to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions for further consideration.

At the same time, all European citizens and organisations can provide feedback on the proposal. A consultation is open from 4 March to 27 May.

Further Links:

- [Proposal for a climate law](#)
- [Public consultation](#)

RDE and NOx Limits

On 13 December 2018, the European Union Court of First Instance ruled that Regulation 715/2007, by which the European Commission raised the emission limits for nitrogen oxides for testing new light passenger cars and commercial vehicles, is partially invalid. According to the ruling of 13 December 2018, the Commission was not authorised to amend the Euro 6 emission limits for the new Real Driving Emissions (RDE) test, which the Commission set by applying conformity factors to the Euro 6 limits in order to compensate for statistical and technical inaccuracies. The Court's judgment primarily challenged the legislative procedure. The Commission was not entitled to amend the limit values of RDE tests with an implementing act. Instead, this would have been introduced by an

ordinary legislative procedure involving the European Parliament and the Council. In order to avoid legal uncertainty regarding type-approvals already granted since 1 September 2017, the Court of First Instance postponed the effects of the annulment by a maximum of 12 months in order to give the Commission sufficient time to implement the judgment. With this proposal, the Commission intends to reintroduce the previously adopted conformity factors.

In Parliament, the Committee on the Environment, Public Health and Food Safety (ENVI) is the lead committee. The Committee on Transport (TRAN) and the Committee on the Internal Market and Consumer Protection (IMCO) will deliver opinions on the ENVI report. The responsible rapporteur of the ENVI Committee, Mr. De Lange (EPP), considers it appropriate to reintroduce in the Regulation compliance factors and a margin of error resulting from statistical and technical uncertainties of portable emission measurement systems (PEMS). Amendments to the current report are intended in particular to clarify that the compliance factor consists of the emission limit values and the instrument-related margin of error. In addition, the Commission is empowered to revise the conformity factors downwards on a yearly basis in the light of improved quality of the measurement procedure or technical progress of PEMS. In addition, the rapporteur calls on the Commission to present its proposal for the period after Euro 6 by mid-2021.

The published opinion of the TRAN Committee is largely concerned with clarifications of the existing text. In the IMCO Committee's opinion, MEPs emphasise the protection of individuals who should not be penalised for nitrogen from diesel engines or particles from direct injection petrol engines. The committee also stresses the importance of transparency and access to repair and maintenance information. Also, a “satisfactory compensation” in the form of a “hardware change” or the “offer of conversion premiums”.

Good to know: What is RDE?

The biggest criticism of the old test method was the significant difference between emission measurements in the laboratory and in real driving situations on the road. So, in addition to and as a supplement to the new Worldwide harmonized Light vehicles Test Procedure (WLTP), the Real Driving Emissions (RDE) test was developed and introduced. In the RDE test, portable emission measuring systems (PEMS) are attached to the tested vehicle to check and confirm the emission values for nitrogen oxides (NO_x) and particle numbers (PN) under real driving conditions.

The RDE legislation has been developed in four legislative acts that have been in force for several years. The European Commission chose this approach because of the broad and technical nature of the text, which covers various areas such as specifications for measuring devices, trigger definitions and boundary conditions. The four packages were divided as follows:

The first package (RDE 1), which was voted on in the Technical Committee of Motor Vehicles (TCMV) in May 2015 and published in the Official Journal of the European Union in March 2016, contains the basic definition of the actual test procedure. In the initial phase from the beginning of 2016, RDE tests were only carried out for monitoring purposes and had no impact on the actual type approvals, which continued to be issued on the basis of laboratory measurements.

The second package (RDE 2), which was voted on in October 2015 and published in the Official Journal of the European Union in April 2016, requires RDE measurements of NO_x from September 2017 for new passenger car models and from September 2019 for all new vehicles.

The third package (RDE 3), voted on in December 2016, extends RDE testing to the measurement of particulate emissions (particle number) until September 2017 for all new vehicle models and until September 2018 for all new vehicles. The package also includes special legal requirements for hybrid vehicles and a procedure for including cold starts and regeneration events

in the RDE test. In addition, the third package also made certification and registration of the results by manufacturers mandatory in order to ensure the necessary transparency.

The fourth package (RDE 4), which was voted on in May 2018 and has been in force since 1 January 2019, includes the new In-Service Conformity (ISC) test, which requires that emissions from vehicles already on the road must be checked each year by type-approval authorities. Type-approval authorities and the Commission may ask accredited laboratories to carry out a test. In addition, the fourth package contains an initial reduction in the conformity factor (1.50 to 1.43). This is to be reduced in stages to 1 by 2023 at the latest. Finally, the law includes a new methodology for assessing actual driving emissions and ensuring that vehicles are driven properly during such tests.

In addition, on 18 February 2020 the Joint Research Centre (JRC) of the European Commission published its assessment of the uncertainty of portable emission measurement systems (PEMS) for the years 2018-2019 compared to standard laboratory equipment in relation to real driving emissions (RDE).

Good to know: What are conformity factors?

The above-mentioned court decision and the resulting current adjustment are about conformity factors. Conformity factors are used to determine the permissible deviation of the RDE values when the vehicle is moved by a real driver on a real road from the emission limit value tested under laboratory conditions and are intended to be gradually reduced. In October 2015, the Commission presented a proposal to implement the new RDE tests. The decision was approved by the European Parliament and the Council in February 2016

In a first step, a temporary compliance factor of 2.1 has been set for all new vehicles for the transitional period until 2020 to take into account both the statistical uncertainty of the test procedure and that of the measuring instruments.

After 2020, a much lower compliance factor (1,5) should apply, which only reflects the uncertainty of the measuring instruments. This margin of error will then be reviewed annually to take into account progress in the accuracy of the portable emission measurement system.

The Commission undertook to review the compliance factor annually with the aim of achieving a continuous reduction. In the light of the latest improvements in metrology, the 4th legal act provides for an initial reduction of the compliance factor from 1.50 to 1.43.

Further Links:

- [Information from the European Commission on the facts of the case](#)
- [ENVI Draft report](#)
- [ENVI amendments](#)
- [IMCO amendments](#)
- [TRAN amendments](#)
- [JRC Technical Report](#)

Whose what belongs here? About the challenges in handling vehicle data

Manufacturers who collect information about the users of their vehicles today have a good chance of winning the big business of tomorrow. How difficult it is to reconcile all interests in the process was demonstrated at a symposium of the European Automobile Club Association (EAC) in Brussels.



Whether everything was really better in the past is something that everyone can answer for themselves. But there is general agreement that

much was different in the past. For example, when driving a car. While vehicles were once only a means of transport for people and goods, with extensive sensor technology and online networking they are now increasingly producers and carriers of data. These are used to record the location, for maintenance instructions to the workshop or brand-specific services, to name three examples of many. Vehicle manufacturers have the first access to this data, because they control the technical structure of the vehicle. This is not good for the consumer, because so much happens without his action or even knowledge. This is the opinion of the EAC, of which the ARCD has been a founding member since 2008. As an interest group, the EAC represents the interests of a total of around three million motorists in Europe. The association is calling for the creation of uniform rules for greater freedom of decision for vehicle owners and users, and has taken a clear position: "The driver is the measure of all vehicle data," says a five-page EAC position paper on data handling in the networked car. To underpin its demand at European level, the EAC brought together key decision-makers in European transport policy for a panel discussion in Brussels at a symposium at the end of November 2019. The topic: Vehicle data - Who is the owner, possessor and user?

Several positions

"A networked car today sends 25 gigabytes of data - per hour," noted guest speaker Ismail Ertug. This corresponds to a data volume comparable to twelve and a half hours of film in HD quality. As a member of the European Parliament's Transport Committee, Ertug emphasized aspects such as data economy, transparency and the purpose of data collections in front of a full audience. In view of a current grey area, especially with regard to data storage, he affirmed: "The fact remains that regulation is needed here.

In the subsequent panel discussion, chaired by moderator Werner Balsen, former Brussels correspondent of the German transport newspaper DVZ, high-ranking experts

exchanged their views. Natalia Lazarova, Head of Unit at the Directorate General for Competition of the European Commission, found that the current legal situation is not yet sufficient to adequately meet all the challenges of a potentially competition-inhibiting handling of data. Such an inhibition occurs, for example, when third parties are denied access to such data. To this extent, the Commission supported the development of appropriate regulations.

Anne Federle from the Brussels law firm Bird & Bird is also involved in EU antitrust law. In her opinion, it is difficult to convince an antitrust authority that a vehicle manufacturer is violating antitrust law. The manufacturers are very sensitive to the gaps they can fill. Even a possible infringement that might be detected would not necessarily lead to access to data for third parties. She therefore also considers a regulation in addition to antitrust law to be necessary.

Concepts required

Francois Fischer, engineer and manager at Ertico-ITS, a kind of think tank on the subject, looked at the issues raised by the symposium from the perspective of the industry. The manager highlighted three areas in which data played a role: mobility with all networked services, vehicles and the energy question, for example when it comes to charging vehicles. However, he rejected the idea of a standardized telematics platform with open interfaces for third parties, as proposed by the EAC in view of the lack of regulations: "I do not believe that we can establish a common platform. It is important to develop concepts for sharing data between stakeholders, but not to force the whole thing.

Control instead of possession

Dimitri Vergne of the European Consumers' Organisation BEUC brought up a new aspect for some experts: "Instead of talking about the possession of data, BEUC prefers to talk about access to and control over data. This fine distinction has a great influence on political and regulatory decisions and is what needs to be discussed with the industry. At the same time, he

argued that consumers should in principle be given fair access to their vehicle data. He considered the known regulations under competition law to be insufficient with regard to the handling of vehicle data. "We may need sector-specific legislation for networked and autonomous cars."

Finally, Jan Bambas of the European Federation of Independent Wholesalers and Retailers of Motor Vehicle Spare Parts FIGIEFA criticised the foreclosure by the concept of the so-called Extended Vehicle favoured by the manufacturers: "This is a system that monopolises access to data. It doesn't give everyone the same opportunities." This urgently needs to change in order to offer independent and competitive services.

In his conclusion of the symposium, EAC President Bernd Opolka summed up the course of the discussion: "I believe that today's debate also leaves motorists in astonishment. Referring to the event's motto, he concluded by demanding: "It is clear to us that we must use the instruments we have today, such as antitrust law and the possibility of regulation by Brussels, so that we can come to an answer to this difficult question, which is still unresolved today, as soon as possible. (Author: Thomas Schreiner; translated by Florian Schmitz)

Further Links:

- [ARCD Press Release \(DE\)](#)
- [EAC-Event Video](#)

On-board fuel consumption measurement

As part of the revised WLTP and RDE test procedures, all new passenger cars and light commercial vehicles must be fitted with an on-board fuel consumption meter (OBFCM) from 1 January 2020. This software records the fuel consumption of a vehicle or the energy consumption of electric or plug-in hybrid cars. From 1 January 2021, all first-time registered vehicles must also be equipped with the

OBFCEM. From 1 January 2021, car manufacturers must also record the actual consumption data for each new vehicle and send this to the Commission. Corresponding plans have been developed since the 3rd quarter of 2017. The monitoring of consumption data is to be tested for five years and will be incorporated into a specific law by 2030 at the latest. The aim is to minimize the discrepancy between the manufacturers' consumption data and the consumption in daily use and to sanction car manufacturers if the gaps are still too large.

How exactly the data will be transmitted to the Commission has not yet been conclusively clarified. For example, data could be read out via the diagnostic interface during the main inspection and transmitted by the workshop. It would also be conceivable to carry out sample surveys during traffic checks, to limit the data to centrally managed car fleets (e.g. rental cars) or directly by wireless data transmission. Furthermore, it is not yet clear which data will ultimately be published. If data were to be published separately for each model, this would increase transparency enormously and make comparisons possible for consumers. Generally summarized average values would not allow this. In theory, the data collected would also make a CO2 consumption tax possible. However, this is not yet planned.

However, it must be ensured that the data is made completely anonymous in order to prevent the state from monitoring individual persons. It must also be clarified who has access to the collected data and what consequences or sanctions will be imposed if violations are detected.

Further Links:

- [EAC Position Paper: Connected Cars](#)

Calendar

Meeting Dates

Council

Transport, Telecommunications and Energy Council	04-05/06/2020
Competitiveness Council	28/05/2020
Council of Justice and Home Affairs	04/06/2020
Council of Environment	22/06/2020

Plenary

tba

Committees

Environment (ENVI)	tba
Internal Market / Consumer (IMCO)	tba
Justice & Home Affairs (LIBE)	tba
Transport (TRAN)	tba

Events (Brussels)

27/05/2020	<u>High Level Conference - Skills and transformation of the EU's automotive sector</u>
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EAC-Events

27/10/2020	EAC Autumn Meeting in Brussels
28/10/2020	EAC Lunch Debate