

Motor vehicles

New approval and market surveillance rules

SUMMARY

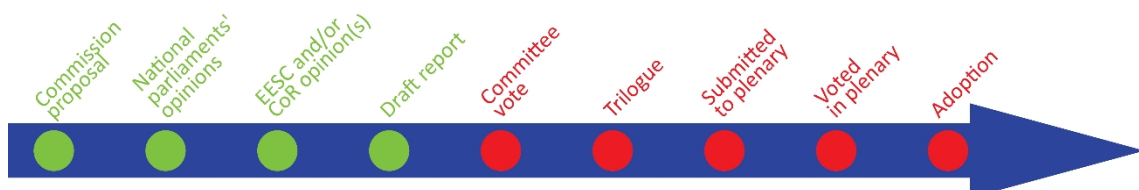
The automotive industry is a major player in the European economy, accounting for 6.4% of gross domestic product and 2.3 million jobs in the European Union (EU). However, it has been facing difficulties as a result of the economic crisis.

In September 2015, the Volkswagen (VW) case highlighted weaknesses in the implementation of type-approval rules for motor vehicles in the European Union, in particular as regards standards on emissions of air pollutants and carbon dioxide.

In 2016, as part of preparations from previous years but also in response to the VW case, the European Commission proposed strengthening the type-approval system for motor vehicles. Its goal is to ensure effective enforcement of rules (including through market surveillance), to strengthen the quality and independence of technical tests and to introduce EU oversight on the type-approval process.

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

<i>Committee responsible:</i>	Internal Market and Consumer Protection (IMCO)	COM(2016) 31 of 27.01.2016
<i>Rapporteur:</i>	Daniel Dalton (ECR, United Kingdom)	<i>procedure ref.:</i> 2016/0014(COD)
<i>Next steps expected:</i>	Vote in IMCO: 26 January 2017	Ordinary legislative procedure



This updates an earlier edition, of September 2016: [PE 589.796](#).

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Introduction

In 2012, the Commission pledged in its [CARS 2020 action plan](#) to put forward a proposal to enhance the type-approval framework for motor vehicles, among other things, by including provisions for market surveillance. In September 2015, the [Volkswagen \(VW\) case](#) highlighted weaknesses in the implementation of type-approval rules for motor vehicles in the EU, in particular as regards standards on emissions.

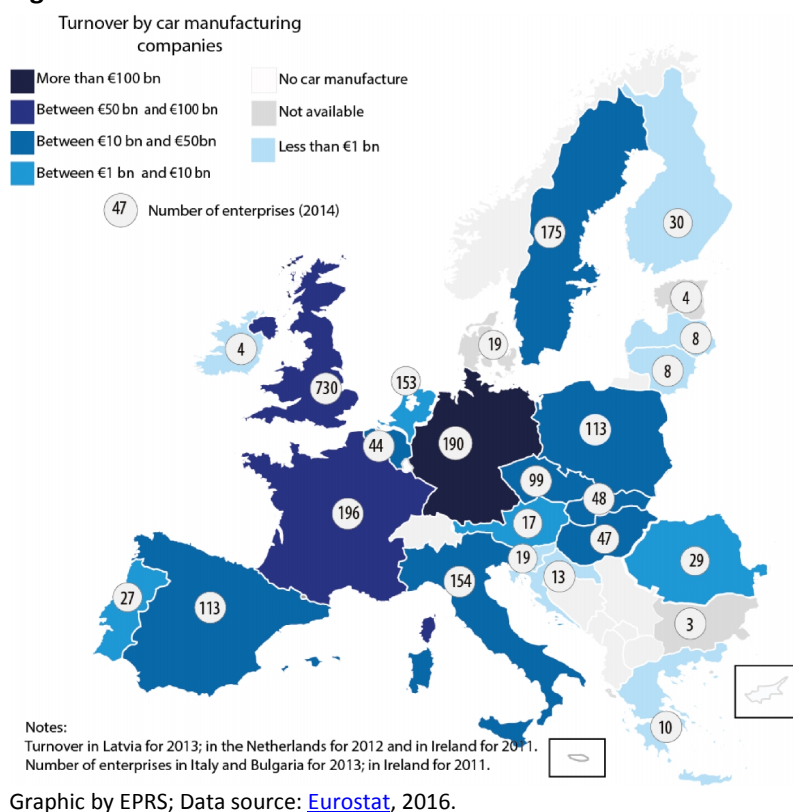
Investigations into the case are ongoing in several Member States. In December 2015, the Parliament set up a [Committee of Inquiry on Emission Measurements](#) (EMIS) to investigate alleged breaches of EU law in relation to emission measurements from vehicles, and failures by EU Member States and the Commission to enforce it. In 2016, the Commission indicated that recent events 'have revealed particular weaknesses and demonstrate the need for a fundamental revision' of the current framework.

Context

The automotive industry is a **major player** in the **EU economy**. In 2013, the [turnover](#) from motor-vehicle manufacturing accounted for €859 billion, or 6.4% of EU gross domestic product (GDP). It also provided 2.3 million direct jobs (in vehicle manufacturing) and 9.8 million indirect jobs (in manufacturing of related equipment, sale and maintenance, road transport and road construction) in 2012, according to data from the European Automobile Manufacturers Association ([ACEA](#)). These jobs accounted for respectively 1% and 4.5% of total employment in the EU.

As shown in Figure 1, the sector is present in almost all Member States, albeit in varying degrees. An estimated 3 000 companies, of

Figure 1 – Automotive sector turnover in the EU



which 2 500 are small and medium-sized enterprises (SMEs), are independent suppliers to car manufacturers. They provide about 75% of vehicles' original equipment components and technology. According to industry figures, 17.2 million motor vehicles (of which 87% are passenger cars) were manufactured in the EU in 2014. Of these,

6 million were exported outside the EU, mainly to the USA, China, Turkey and Russia. The sector is the EU's top investor in research and development, with €41.5 billion invested in 2013.

However, the EU's vehicle manufacturing sector has been facing **difficulties** in recent years. Europe has been overtaken by China as the world region with the highest share of motor vehicle production. Sales have been affected by the economic crisis, resulting in structural over-capacity. Several manufacturers have closed down plants between 2008 and 2013, in addition to undertaking deep internal restructuring. The automotive sector also received substantial state aid in the wake of the economic crisis.¹

The automotive sector has to meet certain **emission standards** – an obligation which has been highlighted in the VW case – as emissions can induce [adverse effects](#) on health, the environment and the climate. Although standards have become increasingly strict, [research](#) indicates that on-road emissions of air pollutants and CO₂ are significantly higher than those measured under laboratory conditions.

Existing situation

The **overall EU policy** for the automotive sector is set out in the Commission's CARS 2020 action plan presented in 2012. The strategy is built around four broad areas: investing in advanced technologies (research and innovation, lowering emissions of CO₂ and pollutants, alternative fuels); improving market conditions; enhancing competitiveness on global markets; and anticipating change.

The **main legislative act on the EU type-approval system** is the 2007 [Framework Directive](#) on type-approval of motor vehicles. The Directive sets procedures for the approval of new vehicles and their trailers (and of systems and components used in these vehicles) with a view to ensuring that safety and environmental requirements are met before such vehicles are placed on the EU market. In order to be approved, a vehicle type must be tested for about 70 requirements set out in legal acts, for instance, with regard to safety (lights, brakes, stability or performance in case of accident, and so forth), environment (for instance, emissions) or specific parts (for example, seats or interior fittings). Many of these requirements are set at international level, in the framework of the United Nations Economic Commission for Europe ([UNECE](#)). Although the tests for some of these requirements can be performed by manufacturers themselves or by means of computer modelling, most tests must be carried out by 'technical services' (see below).

Approval of new vehicle types is granted by [national type-approval authorities](#) and is valid across the EU, based on the principle of mutual recognition which underpins the whole single market. As most national type-approval authorities do not have in-house testing facilities, they mandate [technical services](#) to test conformity with the regulatory requirements. A manufacturer can choose any available technical service to test any of the specific regulatory requirements. It can get partial type-approvals in different Member States, but the overall type-approval must be delivered by one national authority. Specific provisions apply to small series and individual approvals.

On the basis of the type-approval process, every vehicle produced is accompanied by a certificate of **conformity** indicating that the vehicle corresponds to an approved type, and Member States must ensure that conformity of production requirements are met (in other words, that production procedures and products match the approved type). Safeguard clauses enable a Member State, upon finding that vehicles, even though they have been approved, present a serious risk to road safety or seriously harm the

environment or public health, to ban the sale, import or registration of the vehicle for a maximum of six months. Under the 2001 [Directive on general product safety](#), vehicles may be recalled if there is evidence that they present a danger.

As regards emissions from motor vehicles, requirements are set in the **Euro standards for cars and vans** (2007 [Euro 5 and 6](#) Regulation) and **trucks** (2009 [Euro VI](#) Regulation). The Regulations provide for in-service checks by manufacturers and the use of on-board diagnostics (OBD) to ensure that emission limits are complied with. They also require manufacturers to provide repair and maintenance information.

As regards **market surveillance**, general provisions apply.² [Market surveillance](#) includes reactive measures, where potentially dangerous products are identified as a result of complaints or screening, as well as proactive ones, where focus is placed on a specific product or risk. In cases of non-compliance, market surveillance authorities can adopt measures including compliance assistance (help in defining appropriate remedies), formal warnings and fines, withdrawals, seizures of products, recalls and legal proceedings. Measures can be applied at the production/import stage or at the retail/distribution level. Platforms such as the Rapid Alert System ([RAPEX](#)) and the Information and Communication System on Market Surveillance ([ICSMS](#)) help make sure unsafe products are taken off the market.

In the 2013 [conclusions](#) of the **fitness check on the type-approval of motor vehicles**, the Commission indicated that the legal framework is appropriate and there is no need for a major overhaul. However, it pointed out a few weaknesses: the test cycle and measurement methods may not be fully representative of real-world driving conditions; market surveillance is missing; the recall system lacks clarity; and implementation of technical requirements could be improved by harmonising and enhancing approaches from national type-approval authorities and technical services.

The current framework has been particularly criticised since September 2015, after it was revealed that Volkswagen had used 'defeat devices'³ for several years. In 2016, the Commission indicated that 'the mechanisms for ensuring a harmonised implementation and enforcement [of the current legal framework] are not sufficiently robust' and that, as a result of divergences in the interpretation and application of the rules, the Directive's main objectives (that is, achieving an adequate level of safety and environmental performance of motor vehicles) have been undermined.

The changes the proposal would bring

The [proposed regulation](#) replaces and repeals the 2007 Framework Directive on type-approval, making its provisions directly applicable (without transposition into national law by Member States). According to the Commission, the proposal aims to 'ensure a robust, transparent, predictable and sustainable regulatory framework that provides a high level of safety and of health and environmental protection.'

Most elements from the current Framework Directive outlined above are carried over in the proposed regulation. However, the proposal introduces **substantial changes**, which can be grouped into three broad areas:

- **Ensuring effective enforcement and market surveillance.** The proposal limits the validity of type-approval certificates to five years without the possibility of prolongation, although the type-approval certificate may be renewed upon application. The proposal requires action from manufacturers, importers and distributors should they consider that vehicles or systems are non-compliant.

It obliges manufacturers to cooperate and exchange information with approval and market surveillance authorities, and requires market surveillance authorities to carry out spot-checks on cars in circulation. In addition, the proposal requires type-approval documentation to be made publically available.

- **Strengthening the quality of testing.** The proposal reinforces provisions related to **technical services**. In order to be recognised as technical services under the regulation, bodies need, among other things, to be independent, to document their skills and technical knowledge (and that of their subcontractors), and to be assessed by a team made up of the three national approval authorities and a representative of the Commission. They can be designated as technical services for no longer than five years, and their designation may be revoked. To ensure proper implementation and enforcement across the EU, technical services may no longer receive direct payments from manufacturers: Member States will collect fees from manufacturers on their behalf. The proposal also strengthens requirements related to the independence of **approval authorities**, to be checked by regular peer-reviews from other national approval authorities. It also requires approval authorities to carry out systematic checks to make sure vehicles produced match the approved type.
- **Introducing EU oversight in the type-approval process.** The proposal sets up a forum for exchange of information on enforcement, made up of national approval and market surveillance authorities, and chaired by the Commission. It provides for exchange of information between national authorities on type-approvals issued or withdrawn as well as on possible restrictive measures taken. The proposal grants the Commission the power to suspend, restrict or withdraw the designation of technical services; confirm or reverse restrictive measures by national approval authorities; carry out spot checks and initiate remedial actions;⁴ and impose administrative fines on manufacturers of up to €30 000 per non-compliant vehicle or system.

In addition, the proposal amends the **Euro5-6/VI Regulations** mentioned above in order to insert provisions on access to repair and maintenance information.

The proposal confers on the Commission the power to adopt **delegated acts** supplementing or amending non-essential elements of the proposal.⁵ Delegated acts may be vetoed by Parliament or Council, which also have the right to withdraw these delegated powers at any time. The proposal also confers on the Commission the power to adopt **implementing acts** on other elements contained in the proposal.⁶ Implementing acts are adopted by the Commission after approval by the Technical Committee on Motor Vehicles made up of Member State representatives.

According to the Commission, the expected reduction in non-compliant and unsafe automotive products on the EU market would [deliver](#) €13 billion of **benefits** a year, and the regulatory level playing field would benefit EU businesses. As regards **risks**, the Commission [cautions](#) that the five-year limit set on the designation of technical services could induce a temporary shortage of technical services, resulting in delays in the type-approval process for new products.

The Commission estimates that the **costs of implementing** the proposal would reach €341 million a year. As regards the **impact on the EU budget**, the Commission indicates that implementing the proposal would require €40.1 million (to be covered through reassignment of expenditure) and €27.1 million (to be co-financed by Member States through fees levied) between 2017 and 2020. The total impact on the EU budget would therefore amount to an average of €16.8 million a year.

Preparation of the proposal

Since 2010, the Commission undertook a series of **preparatory steps**:⁷ a [public consultation](#); an ex-post evaluation study on the Framework Directive; a [fitness check](#) on the current legal framework (see above for conclusions); and a competitiveness-proofing study, which concluded that the policy options retained would not have a significant impact on SMEs.

Building on an **impact assessment** study carried out in 2011, the Commission published an [impact assessment \(executive summary\)](#) alongside the proposal. While a [first](#) impact assessment had been carried out before the VW case, [additional analysis](#) was carried out after September 2015 to reassess the context in the light of weaknesses in the EU type-approval system, in particular as regards emission standards. The final version estimated that the benefits from the reduction of non-compliant and unsafe automotive products on the EU market would outweigh implementation costs by a factor of 38 to 1.

Parliament's starting position

In its Resolution of 5 October 2015 on [emission measurements in the automotive sector](#), Parliament urged the Commission and Member States to quickly restore the confidence of consumers and called for significant strengthening of the current EU type-approval regime, including greater EU oversight, to ensure a level playing field and effective enforcement of the Union's legislation in all Member States. Specifically, Parliament called for enhancing the conformity of production requirements, improving on-road surveillance through periodic technical inspections, and considering the establishment of an EU-level surveillance authority. In December 2015, the European Parliament set up a [Committee of Inquiry on Emission Measurements](#) (EMIS).

Stakeholders' views

The European Automobile Manufacturers Association ([ACEA](#)) welcomed the proposal and its objectives and issued a series of suggestions, including: putting type-approval authorities in charge of market surveillance; financing market surveillance on an EU (as opposed to national) basis; distinguishing between serious and 'non-critical' non-conformities; establishing simple administrative procedures regarding the renewal of type-approvals after five years; and loosening end-of-series provisions.

European Consumer Organisation [BEUC](#) welcomed the proposal as an opportunity to address shortcomings in current legislation and issued a series of recommendations, including: establishing stronger controls in type-approval and market surveillance; clarifying the obligations of actors involved to avoid any conflict of interest; ensuring penalties apply to all forms of non-compliance; strengthening transparency in type-approval and recall processes.

Environmental NGO [T&E](#) welcomed the proposal as a 'good start' and issued a series of recommendations, including: improving oversight on national regulators; establishing a comprehensive market surveillance programme run by a new 'EU type-approval panel'; increasing transparency and access to data.

Eurocities, representing European cities, highlighted the importance of independent and highly competent technical services, enhanced market surveillance and EU oversight.

Advisory committees

In its [opinion](#) of 25 May 2016, the **European Economic and Social Committee** welcomed the proposal. It highlighted the need for effective and cost-efficient measures regarding

non-compliant products, criticised 'onerous and redundant requirements' related to technical services, and called for regulating the type-approval of aftermarket products.

Council

The [Council](#) is currently examining the proposal at working party level.

National parliaments

Some [national parliaments](#) have issued comments on the proposal. The [Italian Senate](#) called for action to further reduce emissions of air pollutants. The [Romanian Senate](#) called for reconsidering requirements related to type-approval authorities, technical services and market surveillance. The [Portuguese Parliament](#) also issued an opinion.

Parliamentary analysis

The European Parliamentary Research Service published an [initial appraisal](#) of the Commission's impact assessment on the proposal, as well as two short papers on aspects related to emission measurements: [Vehicle emission tests: beyond the VW case](#) (October 2015) and [Measuring on-road air pollution from cars](#) (January 2016).

Legislative process

The Committee on Internal Market and Consumer Protection (IMCO) has been considering the proposal over recent months. The rapporteur for the IMCO Committee, Daniel Dalton (ECR, United Kingdom), presented his draft report in September 2016. A vote in the IMCO Committee is expected on 26 January 2017.

A total of 1 142 amendments have been tabled in the IMCO Committee. The main elements currently under discussion include:

- How should **compliance verification** be organised **at EU level**? In particular, should a new agency be created to oversee national bodies? What should be the powers and obligations of the various actors involved?
- Should the **obligations of manufacturers, importers and distributors** as regards type-approvals and market surveillance be strengthened?
- Should requirements related to **EU type-approval procedures** be strengthened or weakened, for instance as regards information to be supplied by manufacturers and 'conformity of production' tests?
- Should the proposal set **requirements related to the funding of type-approvals and market surveillance**, in particular with a view to reinforcing the independence of technical services from manufacturers? If yes, what should be their scope?
- Should the limit on the **validity of type-approval certificates** be extended beyond the proposed five years, and should there be a possibility to renew them before expiry?
- Should **type-approval authorities** and **technical services** be **subject to some form of control** by actors outside their Member State and if yes, how should it be organised?
- How can **transparency and access to information** be enhanced?
- Should **penalties** apply to a wider range of infringements by economic operators?
- Should **administrative fines** be possible at EU level, and if yes, under what conditions?

The Committees on Environment, Public Health and Food Safety (ENVI) and Transport and Tourism (TRAN) are due to adopt opinions by early December.

References

[Approval and market surveillance of motor vehicles and their trailers](#), European Parliament, Legislative Observatory (OEIL).

[A picture of the EU car industry](#), EP Library briefing, February 2013.

Endnotes

- ¹ The European Commission states that Member States granted approximately €1.8 billion in [state aid](#) to the sector between 2007 and 2014. However, others suggest that overall public support for the EU automotive sector was higher: although state aid declined in the early 2000s, it reached €1.2 billion in 2009 and was supplemented by 'scrapping schemes' worth €4 billion and loans from the European Investment Bank amounting to €2.8 billion (Public support to the European Car Industry: the impact of the financial crisis, Grigolon et al., Journal of Industry, Competition and Trade, 2015).
- ² In particular, [Directive 2001/95/EC](#) on general product safety, [Regulation 765/2008](#) on accreditation and market surveillance, and [Decision 768/2008/EC](#) on the marketing of products. A proposal updating the legal framework regarding the market surveillance of products ([2013/0048\(COD\)](#)) is currently under consideration.
- ³ Software which identifies the moment when a vehicle is being tested based on several parameters such as speed, engine operation, air pressure, temperature and humidity, and enhances the performance of catalysts during the test in order to temporarily lower emissions.
- ⁴ The Commission's Joint Research Centre would carry out the operational checks.
- ⁵ The Commission proposes that delegated acts may be adopted regarding the following: 1) criteria for vehicle categorisation, types of vehicle and types of bodywork (Annex II); 2) technical requirements for approval (Annex IV); 3) composition, appointment process, detailed tasks, working methods and rules of procedure of the Forum for exchange of information on enforcement; 4) template for the information document for the purpose of EU type-approval (Annexes I and III); 5) procedures for EU type-approval (Annex V); 6) template for notification of EU type-approvals (Annex XIV); 7) templates for type-approval certificate (Annexes VI, VII and VIII); 8) virtual testing methods (Annex XVI); 9) conformity of production procedures (Annex X); 10) template for certificate of conformity (Annex IX); 11) requirements for parts or equipment that may pose a serious risk to the correct functioning of essential systems; 12) list of parts or equipment that may pose a serious risk to the correct functioning of essential systems (Annex XIII); 13) template for the certificate authorising parts or equipment that may pose a serious risk to the correct functioning of essential systems (Annex XI); 14) integration of the UNECE regulations adopted by the EU; 15) access to vehicle OBD and vehicle repair and maintenance information (Annex XVIII); 16) technical requirements for which a manufacturer may be designated as a technical service (Annex XV); 17) methods for the calculation and collection of administrative fines.
- ⁶ The Commission proposes that implementing acts may be adopted regarding the following: 1) common criteria for appointing, reviewing and assessing the national approval authorities; 2) criteria for setting out the scale, scope and frequency for checks of vehicles in circulation; 3) data to be made public for the purpose of compliance verification testing; 4) fees to be collected by Member States for verification and inspection by the Commission; 5) type-approval exemptions for new technologies and concepts; 6) extension of a provisional EU type-approval to new technologies and concepts; 7) decision on whether a national restrictive measure is justified or not; 8) decision on whether a national restrictive measure on vehicles presenting a risk to safety, human health and the environment is justified or not; 9) adoption of restrictive measures on non-compliant vehicles, systems or components; 10) authorisation on the use, in regular vehicles, of parts or equipment produced for racing vehicles; 11) authorisation of parts or equipment that may pose a serious risk to the correct functioning of essential systems; 12) recall of vehicles, systems or components; 13) suspension of the designation of technical services by Member States; 14) decision on whether a technical service is not responding to a request by an approval authority or the Commission for a legitimate reason; 15) decision to suspend, restrict or withdraw the designation of a technical service; 16) template of the check-list for the assessment of technical services; 17) structure and level of fees levied on technical services by approval authorities.
- ⁷ The Commission indicates that stakeholders were involved in preparations at various levels: CARS 21 High level group, Technical committee on motor vehicles, Type-approval authorities expert group, Motor vehicles working group.

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