



18.12.2023

NOTICE TO MEMBERS

Subject: Petition No 0222/2019 by M.K. (German) on the introduction of specific provisions and toll payments for heavy goods vehicles applicable throughout Europe

1. Summary of petition

The petitioner calls for special regulations to be adopted at European level regarding heavy goods vehicles, including fines for exceeding a 30-second overtaking time limit on motorways or uniform tolls, the proceeds being channelled into measures to encourage freight transport by rail.

2. Admissibility

Declared admissible on 14 June 2019. Information requested from Commission under Rule 227(6).

3. Commission reply, received on 16 September 2019

The Commission's observations

1) On a time limit for overtaking

The proposal by the petitioner concerns traffic rules which in the absence of EU legislation in this area, are established by Member States. The existing Member State rules are in accordance with international agreements, in particular the Vienna Convention for Road Traffic of 1968 for the majority of Member States, including Germany, which applies also to neighbouring third countries.

2) On traffic jams created by trucks

Concerning this proposal to regulate the behaviour of truck drivers confronted with a traffic jam, the observations made in the previous point are also pertinent.

3) On the recording device

Currently most of the trucks and buses circulating on European roads are equipped with digital tachographs, which allow for recording, among others, driver's activities, such as driving times, other work, availability periods, breaks and rest periods. They also allow for speed and distance measurements.

The new smart tachographs, to be installed in trucks and buses registered for the first time in any Member State as of 15 June 2019, record also the position of the vehicle after every three hours of accumulated driving time, as well as at the beginning and at the end of the daily working period. National authorities may use this feature to enforce the minimum wage laws.

In addition, the Council and Parliament are currently discussing the proposal for an enhanced type of smart tachograph, which would also enable recording the position of the truck when crossing a border, as well as every time the truck is involved in a loading/unloading activity. This additional feature, if finally approved, would provide additional information to enforcement authorities for the control of compliance with the minimum wage laws as well as with the rules on cabotage.

4) On tolls for lorries

In 2017, the Commission made a proposal to revise EU rules on road pricing¹, with the objective of addressing problems related to the road transport sector as a whole. These include Carbon Dioxide (CO₂) and harmful emissions leading to climate change and air pollution respectively, the pressure on parts of the trans-European road network leading to regular congestion, or the discrimination of foreign road users.

Since time-based user charges (vignettes) are not an adequate means to address the problems mentioned above – and are often the source of discrimination against occasional users –, according to the proposal, existing vignette schemes would have to be phased out. Still, Member States would retain the choice of whether or not to introduce a distance-based tolling scheme, and if so, on which part of their road network.

The proposal would specifically allow Member States to apply congestion charging on sections of their road networks that are regularly congested, or to apply mark-ups in areas that are affected by significant environmental damage or acute congestion. According to the proposal, the revenues from such additional charges would have to be used to finance the development of alternative transport infrastructure or services.

¹ COM (2017) 275 final.

The proposal is currently in the legislative process². In October 2018, Parliament adopted its position on the Commission proposal in first reading³, including provisions that would require Member States to use revenues generated from tolls to optimise the entire transport system. Discussions in Council are still ongoing.

Conclusion

Regarding the proposals for a time limit for overtaking and for specific rules applying to the behaviour of truck drivers when confronted with a traffic jam, the Commission considers that any such problem can appropriately be addressed by traffic rules (to be) established by Member States, in accordance with the international agreements to which they are parties.

As regards the requirements related to the recording equipment and the rules on tolls applied to heavy goods vehicles, the Commission considers that the amendments of existing legislation, as proposed by the Commission in 2017, would be sufficient. To be noted however that the final text emerging from the discussions of the Commission's proposal will depend in essence on the respective positions of Parliament and of the Council.

4. Commission reply (REV I), received on 24 June 2020

1) On a time limit for overtaking

The proposal by the petitioner concerns traffic rules which in the absence of EU legislation in this area, are established by Member States. The existing Member State rules are in accordance with international agreements, in particular the Vienna Convention for Road Traffic of 1968 for the majority of Member States, including Germany, which applies also to neighbouring third countries.

2) On traffic jams created by trucks

Concerning this proposal to regulate the behaviour of truck drivers confronted with a traffic jam, the observations made in the previous point are also pertinent.

3) On the recording device

Currently most of the trucks and buses circulating on European roads are equipped with digital tachographs, which allow for recording, among other things, driver's activities, such as driving times, other work, availability periods, breaks and rest periods. They also allow for speed and distance measurements.

² <https://eur-lex.europa.eu/legal-content/EN/HIS/?uri=CELEX:52017PC0275>

³ [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=EP:P8_TA\(2018\)0423](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=EP:P8_TA(2018)0423)

The new smart tachographs, to be installed in trucks and buses registered for the first time in any Member State as of 15 June 2019, record also the position of the vehicle after every three hours of accumulated driving time, as well as at the beginning and at the end of the daily working period. Depending on national rules, national authorities may use this feature to enforce the minimum wage legislation.

In addition, in December 2019, the Council and Parliament adopted legislative measures which will allow to develop an enhanced type of smart tachograph (smart tachograph 2), which will also enable recording the position of the truck when crossing a border, as well as every time the truck is involved in a loading/unloading activity. These additional features will provide additional information to enforcement authorities to check that drivers are indeed paid the remuneration of the host Member State when performing certain types of operations as well as complying with the rules on cabotage.

4) On tolls for lorries

In 2017, the Commission made a proposal to revise EU rules on road pricing⁴, with the objective of addressing problems related to the road transport sector as a whole. These include carbon dioxide (CO₂) and harmful emissions leading to climate change and air pollution respectively, the pressure on parts of the trans-European road network leading to regular congestion, or the discrimination of foreign road users.

Since time-based user charges (vignettes) are not an adequate means to address the problems mentioned above – and are often the source of discrimination against occasional users –, according to the proposal, existing vignette schemes would have to be phased out. Still, Member States would retain the choice of whether or not to introduce a distance-based tolling scheme, and if so, on which part of their road network.

The text proposed would specifically allow Member States to apply congestion charging on sections of their road networks that are regularly congested, or to apply mark-ups in areas that are affected by significant environmental damage or acute congestion. According to the proposal, the revenues from such additional charges would have to be used to finance the development of alternative transport infrastructure or services.

The proposal is currently in the legislative process⁵. In October 2018, Parliament adopted its position on the Commission proposal in first reading⁶, including provisions that would require Member States to use revenues generated from tolls to optimise the entire transport system. Discussions in Council are still ongoing.

Conclusion

⁴ COM (2017) 275 final.

⁵ <https://eur-lex.europa.eu/legal-content/EN/HIS/?uri=CELEX:52017PC0275>

⁶ [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=EP:P8_TA\(2018\)0423](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=EP:P8_TA(2018)0423)

Regarding the proposals for a time limit for overtaking and for specific rules applying to the behaviour of truck drivers when confronted with a traffic jam, the Commission considers that any such problem can appropriately be addressed by traffic rules (to be) established by Member States, in accordance with the international agreements to which they are parties.

As regards the requirements related to the recording equipment and the rules on tolls applied to heavy goods vehicles, the Commission considers that the amendments of existing legislation, as proposed by the Commission in 2017, would be sufficient. To be noted that the legislator has politically agreed on a text on the former issue. The texts regarding tolls are still under discussion between the Parliament and the Council.

5. Commission reply (REV II), received on 18 December 2023

1) On the competence to legislate in the transport area

Transport is a shared competence between Member States and the European Union, meaning that Member States may exercise their competence on matters pertaining to this area if the EU has not. The EU will only propose measures when the objectives of an action cannot be sufficiently achieved by the Member States, but can be better achieved at EU level, ‘by reason of the scale and effects of the proposed action’ (principle of subsidiarity)⁷.

General traffic rules do not in principle fall into this category and are therefore not currently regulated at EU level but by Member States, at central or regional and local levels. The international coordination of traffic rules is governed by international agreements such as the 1968 Vienna Convention on Road Traffic.

The Commission proposed harmonised speed limits for trucks and buses in 1988⁸, but the proposal was withdrawn in 2000 because of a lack of progress in the Council, and there is no evidence to suggest that a different outcome would be achieved if the Commission tabled a similar proposal again. There are accordingly no uniform speed limits on European motorways based on EU legislation, and Member States set the speed limits applicable on the roads on their territory.

At the same time, however, it should be noted that trucks and buses in the EU have to be equipped with a speed limitation device in accordance with Directive 92/6/EEC⁹ which limit their maximum speed to 90 km/h (trucks) and 100 km/h (buses) respectively. There is hence a *de facto* EU-wide speed limit for certain categories of vehicles.

2) On non-discrimination and fair competition

EU law lays down requirements to exercise the activity of road transport and specifies rules on driving times and conditions to be fulfilled to provide road transport services. In 2020, the European Parliament and the Council adopted a set of new rules (under the name of ‘Mobility Package I’) that aim to ensure fair competition between operators and improve working and social conditions for drivers. For example, these rules ensure that drivers who are posted to other Member States are remunerated according to rates in the host Member State, that drivers have the right to spend regular weekly rests in adequate accommodation provided by their

⁷ Article 5(3) Treaty on European Union.

⁸ COM(88) 706 final, OJ C 33, 9.2.89, p. 9.

⁹ OJ L 57, 2.3.1992, p. 27.

employer, and that their employer must organise the drivers' work so that they are able to regularly return to their place of residence or the place of establishment of the undertaking. To ensure a level playing field and prevent abusive business practices, new rules further regulate cabotage operations and strengthen enforcement of such rules.

In order to facilitate checks on compliance with EU rules on road transport, trucks and buses circulating on European roads must be equipped with tachographs¹⁰, which notably allow the recording of driver's activities, such as driving times, other work, availability periods, breaks and rest periods, but also speed and distance measurements. A new smart tachograph, to be installed in all vehicles engaged in international transport over the next three years, includes additional functionalities, such as the recording of border crossings, to facilitate the enforcement of the above-mentioned new rules.

Member States are competent for the enforcement of the traffic rules that are applicable on their territory.

3) On overtaking between trucks

Concerning the suggestion to regulate the behaviour of truck drivers when overtaking other trucks and the use of tachographs or other tools to enforce such rules, the observations made in the first and second point are also pertinent. There is no reason to believe that Member States could not effectively achieve any related objective through legislative action at their level. Traffic rules applicable in a Member State apply to anyone driving on the territory of that Member State.

The tachograph is not meant to record all activities of a truck or bus driver, be it legal or not, such as illegal overtaking. Therefore, the information collected by the tachograph would not allow enforcing overtaking bans. There are other devices such as traffic cameras which may help enforce such rules more effectively.

Conclusion

The Commission does not see any reason for additional legislative action or for the development of new enforcement tools at EU level in the fields mentioned above by the petitioner. Mobility Package I is recent and provides a comprehensive set of rules to ensure fair competition between operators and improve working conditions for drivers. They can be enforced thanks to the tachograph. Rules on speed limit and overtaking of vehicles and their effective enforcement are better dealt with at the level of Member States.

¹⁰ Regulation (EU) 165/2014, OJ L 60, 28.2.2014, p. 1.