



**2019/0101(COD)**

18.12.2019

**\*\*\*I**

## **DRAFT REPORT**

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 715/2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (COM(2019)0208 – C9-0009/2019 – 2019/0101(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Esther de Lange

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 715/2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (COM(2019)0208 – C9-0009/2019 – 2019/0101(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2019)0208),
  - having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0009/2019),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the opinion of the European Economic and Social Committee of ... <sup>1</sup>,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the opinions of the Committee on the Internal Market and Consumer Protection and the Committee on Transport and Tourism,
  - having regard to the report of the Committee on the Environment, Public Health and Food Safety (A9-0000/2019),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

**Proposal for a regulation**  
**Recital 3**

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<sup>1</sup> OJ C ... / Not yet published in the Official Journal.

*Text proposed by the Commission*

(3) The type-approval requirements relating to emissions from motor vehicles have been gradually and significantly tightened through the introduction and subsequent revision of Euro standards. While vehicles in general have delivered substantial emission reductions across the range of regulated pollutants, this was not the case for NO<sub>x</sub> emissions from diesel engines or particles for gasoline direct injection engines, installed in particular in light-duty vehicles. Actions **for correcting** this situation are therefore needed.

*Amendment*

(3) The type-approval requirements relating to emissions from motor vehicles have been gradually and significantly tightened through the introduction and subsequent revision of Euro standards. While vehicles in general have delivered substantial emission reductions across the range of regulated pollutants, this was not the case for NO<sub>x</sub> emissions from diesel engines or particles for gasoline direct injection engines, installed in particular in light-duty vehicles. Actions **to correct** this situation are therefore needed.

Or. en

## **Amendment 2**

### **Proposal for a regulation Recital 6**

*Text proposed by the Commission*

(6) Regulation (EU) 2016/646<sup>21</sup> introduced the dates of application of the RDE test procedure, as well as the compliance criteria for RDE. For that purpose, pollutant-specific conformity factors were **used** to take account of statistical and technical uncertainties of the measurements conducted by means of Portable Emission Measurement Systems (PEMS).

*Amendment*

(6) Regulation (EU) 2016/646<sup>21</sup> introduced the dates of application of the RDE test procedure, as well as the compliance criteria for RDE. For that purpose, pollutant-specific conformity factors were **introduced, including margins of error**, to take account of statistical and technical uncertainties of the measurements conducted by means of Portable Emission Measurement Systems (PEMS). **A clear distinction should be made between the conformity factor (CF) for the emission limits and the device-related margin of error.**

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<sup>21</sup> Commission Regulation (EU) 2016/646 of 20 April 2016 amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6) (OJ L 109, 26.04.2016, p.1).

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<sup>21</sup> Commission Regulation (EU) 2016/646 of 20 April 2016 amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6) (OJ L 109, 26.04.2016, p.1).

*Justification*

*Clarification that the conformity factor consists of the emission limit standards Euro 5 and 6 and additional measurement uncertainties introduced by the PEMS equipment*

**Amendment 3****Proposal for a regulation****Recital 8***Text proposed by the Commission*

(8) The General Court did not question the technical justification of the conformity factors. Therefore, and given that at the current stage of technological development there is still a discrepancy between emissions measured in real driving and those measured in a laboratory, it is appropriate to introduce ***the conformity factors*** into Regulation (EC) No 715/2007.

*Amendment*

(8) The General Court did not question the technical justification of the conformity factors. Therefore, and given that at the current stage of technological development there is still a discrepancy between emissions measured in real driving and those measured in a laboratory, it is appropriate to introduce into Regulation (EC) No 715/2007 ***conformity factors consisting of the requirement that the vehicle meet the emission limits, which may not be exceeded, that are set out in Regulation (EC) No 715/2007 and a margin of error resulting from statistical and technical uncertainties of the PEMS.***

*Justification*

*Clarification that the conformity factor consists of the applicable emission limit standards Euro 5 and 6 and additional measurement uncertainties introduced by the PEMS equipment*

**Amendment 4****Proposal for a regulation****Recital 9***Text proposed by the Commission*

(9) In order to allow manufacturers to comply with the Euro 6 emission limits in

*Amendment*

(9) In order to allow manufacturers to comply with the Euro 6 emission limits in

the context of RDE test procedure, the compliance criteria for RDE **should be** introduced in two steps. During the first step, upon the request of the manufacturer, a temporary conformity factor **should** apply, while as a second step only the final conformity factor **should** be used. The Commission should **keep under review** the final conformity factors **in light of** technical progress.

the context of **the** RDE test procedure, the compliance criteria for RDE **have been** introduced in two steps. During the first step, upon the request of the manufacturer, a temporary conformity factor **can** apply, while as a second step only the final conformity factor **are to** be used. The Commission should **adjust downwards the margin of error used to calculate** the final conformity factors **every year as a result of the improved quality of the measuring procedure or** technical progress **of PEMS equipment, unless the Commission justifies the reason for not being able to do so.**

Or. en

#### *Justification*

*Clarification that the conformity factor consists of the emission limit standards Euro 5 and 6 and additional measurement uncertainties introduced by the PEMS equipment. This margin of error is subject to annual review and shall be revised as a result of the improved quality of the PEMS procedure or technical progress.*

## **Amendment 5**

### **Proposal for a regulation Recital 9 a (new)**

*Text proposed by the Commission*

*Amendment*

**(9 a) As the General Court of the European Union has ruled that conformity factors should be adopted through the ordinary legislative procedure, this legislative proposal aims to reinstate the conformity factors by amending Regulation (EC) No 715/2007. It is important to underline that while this proposal deals with the conformity factor including the margin of error introduced by the PEMS equipment, the issue of the emission limit standards is to be dealt with in the context of the forthcoming post-Euro 6 proposal. In order to make progress towards the adoption of the**



*future (post - Euro 6) emission limit values, it is essential that the Commission present, where appropriate, a legislative proposal to that effect as soon as possible and at the latest by June 2021 as announced by the Commission in its communication of 11 December 2019 entitled "The European Green Deal". It is necessary that the Commission take duly into account any standards developed by the European Committee for Standardization (CEN) which assess PEMS performance with regard to NO<sub>x</sub> and PN measurement.*

Or. en

### *Justification*

*This amendment aims to set a date to the ongoing work of the European Commission on the post-Euro 6 emission limit standards whereby it should take into account the results of the European Committee for Standardization (CEN TC301) on a draft international standard to assess PEMS equipment.*

## **Amendment 6**

### **Proposal for a regulation**

#### **Recital 10**

#### *Text proposed by the Commission*

(10) The Treaty of Lisbon introduced the possibility for the legislator to delegate power to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act. The measures which can be covered by delegations of powers, as referred to in Article 290(1) *TFEU*, correspond in principle to those covered by the regulatory procedure with scrutiny established by Article 5a of Council Decision 1999/468/EC<sup>23</sup>. It is therefore necessary to adapt to Article 290 TFEU the provisions of Regulation (EC) No 715/2007 which provide for the use of the regulatory procedure with scrutiny.

#### *Amendment*

(10) The Treaty of Lisbon introduced the possibility for the legislator to delegate power to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act. The measures which can be covered by delegations of powers, as referred to in Article 290(1) *of the Treaty on the Functioning of the European Union (TFEU)*, correspond in principle to those covered by the regulatory procedure with scrutiny established by Article 5a of Council Decision 1999/468/EC<sup>23</sup>. It is therefore necessary to adapt to Article 290 TFEU the provisions of Regulation (EC) No 715/2007 which

provide for the use of the regulatory procedure with scrutiny.

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<sup>23</sup> Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23).

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<sup>23</sup> Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23).

Or. en

## Amendment 7

### Proposal for a regulation Recital 11

#### *Text proposed by the Commission*

(11) In order to contribute to the achievement of the Union's air quality objectives and to reduce vehicle emissions, the power to adopt acts in accordance with Article 290 *of the Treaty on the Functioning of the European Union (TFUE)* should be delegated to the Commission in respect of the detailed rules on the specific procedures, tests and requirements for type approval. That delegation should include supplementing Regulation (EC) No 715/2007 by such revised rules as well as the test cycles used to measure emissions; the requirements for the implementation of the prohibition on the use of defeat devices that reduce the effectiveness of emission control systems; the measures necessary for the implementation of the obligation of a manufacturer to provide unrestricted and standardised access to vehicle repair and maintenance information; the adoption of a revised measurement procedure for particulates. The delegation should further include amending Regulation (EC) No 715/2007 for the purposes of revising the final conformity *factors* downwards to reflect technical progress in PEMS and

#### *Amendment*

(11) In order to contribute to the achievement of the Union's air quality objectives and to reduce vehicle emissions, the power to adopt acts in accordance with Article 290 *TFEU* should be delegated to the Commission in respect of the detailed rules on the specific procedures, tests and requirements for type approval. That delegation should include supplementing Regulation (EC) No 715/2007 by such revised rules as well as the test cycles used to measure emissions; the requirements for the implementation of the prohibition on the use of defeat devices that reduce the effectiveness of emission control systems; the measures necessary for the implementation of the obligation of a manufacturer to provide unrestricted and standardised access to vehicle repair and maintenance information; *and* the adoption of a revised measurement procedure for particulates. The delegation should further include amending Regulation (EC) No 715/2007 for the purposes of revising *annually the margin of error and* the final conformity *factor* downwards to reflect *improved quality of the measuring procedure or* technical progress in PEMS

recalibrating the particulate mass based limit values and introducing particle **number based** limit values. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations are conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council **should** receive all documents at the same time as Member States' experts, and their experts systematically **should** have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

and recalibrating the particulate mass based limit values and introducing particle **number-based** limit values. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations are conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016<sup>1a</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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<sup>1a</sup> *OJ L 123, 12.5.2016, p. 1.*

Or. en

#### *Justification*

*The margin of error is subject to annual review and can be revised as a result of the improved quality of the PEMS procedure or technical progress*

### **Amendment 8**

#### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 2 a (new)**

Regulation (EC) No 715/2007

#### **Article 3 – paragraph 1 – point 18 a (new)**

*Text proposed by the Commission*

*Amendment*

**(2a) In Article 3, paragraph 1, the following point is added:**

**"18a. 'margin of error' means a parameter that takes into account the additional measurement uncertainties introduced by the PEMS equipment, which is subject to an annual review, and**

*which shall be revised as a result of the improved quality of the measuring procedure or technical progress."*

Or. en

*Justification*

*This amendment aims to define the margin of error, based on Commission Regulation (EU) 2016/646 Annex II 2.1.1.*

**Amendment 9**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 10**

Regulation (EC) No 715/2007

Article 14 – paragraph 3 – point b

*Text proposed by the Commission*

(b) amending this Regulation in order to adapt to technical progress the pollutant-specific final conformity factors set out in Table 2a to Annex I.;

*Amendment*

(b) amending this Regulation in order to adapt to technical progress the pollutant-specific ***margin of error and*** final conformity factors set out in Table 2a to Annex I.;

Or. en

**Amendment 10**

**Proposal for a regulation**

**Annex**

Regulation (EC) No 715/2007

Annex I – table 2a

*Text proposed by the Commission*

Real Driving Emissions Conformity Factors

	Oxides of nitrogen (NO <sub>x</sub> )	Number of particles (PN)	Carbon monoxide (CO) <sup>(1)</sup>	Total hydrocarbons (THC)	Combined hydrocarbons and oxides of nitrogen (THC + NO <sub>x</sub> )
CF pollutant-	<b>1,43</b>	<b>1,5</b>	-	-	-

final <sup>(2)</sup>

CF pollutant-temp <sup>(3)</sup>	2,1	1,5	-	-	-
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<sup>(1)</sup> CO emissions shall be measured and recorded for all RDE tests.

<sup>(2)</sup> CF pollutant-final is the conformity factor used to determine compliance with the Euro 6 emission limits by taking into account the technical uncertainties linked with the use of the Portable Emission Measurement Systems (PEMS).

<sup>(3)</sup> CF pollutant-temp is the temporary conformity factor that may be used upon request of the manufacturer as an alternative to CF pollutant-final during a period of 5 years and 4 months following the dates specified in Article 10(4) and (5).”.

### *Amendment*

#### Real Driving Emissions Conformity Factors

	Oxides of nitrogen (NOx)	Number of particles (PN)	Carbon monoxide (CO) <sup>(1)</sup>	Total hydrocarbons (THC)	Combined hydrocarbons and oxides of nitrogen (THC + NOx)
CF pollutant-final <sup>(2)</sup>	<b><i>1 + margin of error (margin = [0,43]* )</i></b>	<b><i>1 + margin of error (margin = 0,5)</i></b>	-	-	-
CF pollutant-temp <sup>(3)</sup>	2,1	1,5	-	-	-

***\* To be revised downwards on the basis of the imminent assessment of the Joint Research Centre***

<sup>(1)</sup> CO emissions shall be measured and recorded for all RDE tests.

<sup>(2)</sup> CF pollutant-final is the conformity factor used to determine compliance with the Euro 6 emission limits by taking into account the technical uncertainties linked with the use of the Portable Emission Measurement Systems (PEMS). ***It is therefore expressed as 1 + a margin of error.***

<sup>(3)</sup> CF pollutant-temp is the temporary conformity factor that may be used upon request of the manufacturer as an alternative to CF pollutant-final during a period of 5 years and 4 months following the dates specified in Article 10(4) and (5).”.

Or. en

### *Justification*

*Clarification that the conformity factor consists of the emission limit standards Euro 5 and 6 and additional measurement uncertainties introduced by the PEMS equipment.*



## EXPLANATORY STATEMENT

On 13 December 2018, the General Court of the European Union partly annulled Commission Regulation (EU) 2016/646. The judgment states<sup>1</sup> that the European Commission had no power to introduce conformity factors used to assess compliance of the vehicle with the emission limits while performing a Real Driving Emissions (RDE) test simply by using its implementing powers to amend Regulation (EC) No 715/2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6). As the Court ruled that conformity factors should be adopted through the ordinary legislative procedure, the European Commission adopted on 14 June 2019 a legislative proposal to amend Regulation (EC) No 715/2007, re-instating the conformity factors previously adopted in Commission Regulation (EU) 2016/646.

The Rapporteur finds it appropriate to re-install conformity factors consisting of the requirements for the vehicle to meet the emission limit standards Euro 5 and 6, which may not be exceeded, set out in Regulation (EC) No 715/2007 and the margin of error resulting from statistical and technical uncertainties of the Portable Emission Measurement Systems (PEMS). The Rapporteur introduces amendments to make clear that the conformity factor consists of the emission limits and the device-related error margin. Furthermore, the Rapporteur empowers the Commission to annually review downwards the conformity factors as a result of the improved quality of the measuring procedure or technical progress of the PEMS. Moreover, the Rapporteur calls on the Commission to present its post-Euro 6 proposal by mid-2021 taking into account the upcoming results of the European Committee for Standardization (CEN TC301) on a draft international standard to assess PEMS equipment.

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<sup>1</sup> Direct Actions T339/16 (Ville de Paris/Commission), T-352/16 (Ville de Bruxelles/Commission) and T-391/16 (Ayuntamiento de Madrid/Commission)