OPINION

of the Committee on Transport and Tourism

for the Committee on the Environment, Public Health and Food Safety


Rapporteur for opinion: Sven Schulze
SHORT JUSTIFICATION

The opinion of the Committee on Transport for the Committee on the Environment, as the committee responsible, was rendered necessary by a court ruling on EU jurisdiction.

In a judgment of 13 December 2018, it was found that conformity factors for type approval under Regulation (EC) No 715/2007 of the European Parliament and of the Council should not have been introduced through the comitology procedure. The ordinary legislative procedure should have been used instead. An appeal procedure against this judgment is pending. However, the Commission has decided to submit, concurrently, a legislative proposal for the introduction of conformity factors.

The rapporteur welcomes the Commission’s intention to ensure legal certainty and reliability for manufacturers and consumers through this legislative proposal. This also includes, in the opinion of the rapporteur, the fact that manufacturers and consumers can continue to rely on the conformity factors which are familiar from the comitology procedure.

He would like to suggest that the conformity factors be clearly separated from error margins in future and is proposing amendments to this effect.

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AMENDMENTS

The Committee on Transport and Tourism calls on the Committee for the Environment, Public Health and Food Safety, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation
Recital 3

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(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</td>
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</tr>
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</table>
substantial emission reductions across the range of regulated pollutants, this was not the case for NOx 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 2
Proposal for a regulation
Recital 4

Text proposed by the Commission

(4) The Commission performed a detailed analysis of the procedures, tests and requirements for type approval that are set out in Regulation (EC) No 692/2008 on the basis of own research and external information and found that the emissions generated by real driving on the road of Euro 5 or Euro 6 vehicles substantially exceed the emissions measured on the regulatory New European Driving Cycle (NEDC), in particular with respect to NOx emissions of diesel vehicles.

Amendment

(4) The Commission performed a detailed analysis of the procedures, tests and requirements for type approval that are set out in Regulation (EC) No 692/2008 on the basis of own research and external information and found that the emissions generated by real driving on the road of Euro 5 or Euro 6 vehicles in almost all cases substantially exceed the emissions measured on the regulatory New European Driving Cycle (NEDC), in particular with respect to NOx emissions of diesel vehicles.

Amendment 3
Proposal for a regulation
Recital 5
(5) As a result, the Commission developed a new methodology for testing vehicle emissions in real-driving conditions, the real-driving emissions (RDE) test procedure. The RDE test procedure was introduced by Commission Regulations (EU) 2016/427\textsuperscript{18} and (EU) 2016/646\textsuperscript{19}, subsequently taken over into Regulation (EU) 2017/1151 and further improved by Commission 
\textbf{Regulation} (EU) 2017/1154\textsuperscript{20}. 


Amendment 4

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) Regulation (EU) 2016/646 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 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, and separate error margins were used to take account of statistical and technical uncertainties of the measurements Portable Emission Measurement Systems (PEMS). The conformity factor (CF = 1) should be clearly separated from any device-related margin of error.

Amendment 5

Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) On 13 December 2018, the General Court delivered judgment in Joined Cases T-339/16, T-352/16 and T-391/1622 concerning an action for annulment of Regulation (EU) 2016/646. The General Court annulled the part of Regulation (EU) 2016/646 which established the conformity factors used to assess compliance of RDE test results with the emission limits laid down in Regulation (EC) No 715/2007. The Court found that only the legislator could introduce those conformity factors as they touched upon an essential element of Regulation (EC) No 715/2007.

Amendment

(7) On 13 December 2018, the General Court delivered judgment in Joined Cases T-339/16, T-352/16 and T-391/1622 concerning an action for annulment of Regulation (EU) 2016/646. The General Court annulled the part of Regulation (EU) 2016/646 which established the conformity factors and error margins used to assess compliance of RDE test results with the emission limits laid down in Regulation (EC) No 715/2007. The Court found that only the legislator could introduce those conformity factors and error margins as they touched upon an essential element of Regulation (EC) No 715/2007. An appeal against this judgment is pending.


Amendment 6

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 and error margins. 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 exact same conformity factors and the error margin when using PEMS into
Amendment 7
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 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.

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 the error margin under annual review, taking into account the technical progress of motor vehicles and of Portable Emission Measurement Instruments (PEMS), and use them for future legislative acts.

Amendment 8
Proposal for a regulation
Recital 9 a (new)

Text proposed by the Commission

(9 a) To avoid legal uncertainty on type approvals already granted since 1 September 2017 as well as on future type approvals, it is of great importance to reinstate all the previously adopted conformity factors and error margins without change to the global figure, especially considering that manufacturers have already designed their vehicles taking into account the RDE procedure previously adopted. In order to revise the error margin downwards, the Commission is called upon to take into consideration any standards adopted by the European
Committee for Standardisation (CEN) for a standard procedure to assess RDE measurement uncertainty with regard to gaseous and particle emissions. The Commission will therefore mandate CEN to work out a PEMS-Performance Standard for determination of individual error margins of PEM-Systems. Before applying a PEMS-Performance Standard the Commission is committed to keeping the error margin under annual review and to update it only once improvements in the measuring technology are made.

Amendment 9

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

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 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 delegation should further include amending Regulation (EC) No 715/2007 for the purposes of revising the error margins to reflect technical progress in PEMS. 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
reflect technical progress in PEMS 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. 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.

**Amendment 10**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 3 – point a**


Article 4 – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

Those obligations include meeting the emission limits set out in Annex I. For the purposes of determining compliance with the Euro 6 emission limits set out in Table 2 of Annex I, the emission values determined during any valid Real Driving Emissions (RDE) test shall be divided by the applicable conformity factor set out in Table 2a of Annex I. The result shall remain below the Euro 6 emission limits set out in Table 2 of that Annex.

*Amendment*

Those obligations include compliance with the emission limits set out in Annex I. For the purposes of determining compliance with the Euro 6 emission limits set out in Table 2 of Annex I, the emission values determined during any valid Real Driving Emissions (RDE) test shall be divided by the applicable conformity factor or, where specified, by the sum of the applicable conformity factor and error margin set out in Table 2a of Annex I. The result shall comply with the Euro 6 emission limits set out in Table 2 of that Annex.

**Amendment 11**
Proposal for a regulation
Article 1 – paragraph 1 – point 4 – point a
Article 5 – paragraph 1

Text proposed by the Commission

1. The manufacturer shall equip vehicles so that the components likely to affect emissions are designed, constructed and assembled so as to enable the vehicle, in normal use, to comply with this Regulation;

Amendment

1. The manufacturer shall equip vehicles so that the components likely to affect emissions are designed, constructed and assembled so as to enable the vehicle, in normal use, to comply with this Regulation. The manufacturer shall also guarantee the reliability of the pollution control devices and shall aim to reduce the risk of theft of these devices or tampering therewith.

Amendment 12

Proposal for a regulation
Article 1 – paragraph 1 – point 10
Article 14 – paragraph 2

Text proposed by the Commission

2. The Commission is empowered to adopt delegated acts in accordance with Article 14a in order to adopt the following measures based on the results of the UNECE Particulate Measurement Programme, conducted under the auspices of the World Forum for Harmonisation of Vehicle Regulations, without lowering the level of environmental protection within the Union:

(a) amend this Regulation for the purposes of reviewing the particulate mass and particle number limit values set out in Annex I;

(b) supplement this Regulation by the adoption of a revised measurement

Amendment

2. The Commission is empowered to adopt delegated acts in accordance with Article 14a:

(a) amending this Regulation in order to revise the pollutant-specific error margins set out in Table 2a to Annex I in light of technical progress by taking into account the technical uncertainties linked with the use of Portable Emission Measurement Systems (PEMS);

(b) supplementing this Regulation in order to adapt the procedures, tests and
procedure for particle numbers.

requirements as well as the test cycles used to measure emissions in order to adequately reflect real driving emissions;

Amendment 13

Proposal for a regulation
Article 1 – paragraph 1 – point 10
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 revise the pollutant-specific error margins set out in Table 2a to Annex I in light of technical progress by taking into account the technical uncertainties linked with the use of Portable Emission Measurement Systems (PEMS);.

Amendment 14

Proposal for a regulation
Article 1 – paragraph 1 – point 10 a (new)
Article 14 – paragraph 5 a (new)

Text proposed by the Commission

(10a) In Article 14, the following paragraph is added:

5a. The Commission shall take into account any standards adopted by the European Committee for Standardization (CEN) which provide a technically sound approach to assess RDE measurement uncertainty with regard to gaseous and particle emissions, with the aim of requiring the use of such a standard under this Regulation in order for an appropriate authority to verify a specific margin of uncertainty for PEMS applications and to consider if that is sufficient to replace the specific margins of error indicated in Table 2a in Annex I
Amendment 15

Proposal for a regulation
Annex – paragraph 1
Annex I – table 2a

Text proposed by the Commission

Table 2a: Real Driving Emissions Conformity Factors

<table>
<thead>
<tr>
<th>Pollutant</th>
<th>Oxides of nitrogen (NO\textsubscript{x})</th>
<th>Number of particles (PN)</th>
<th>Carbon monoxide (CO\textsuperscript{(1)})</th>
<th>Total hydrocarbons (THC)</th>
<th>Combined hydrocarbons and oxides of nitrogen (THC + NO\textsubscript{x})</th>
</tr>
</thead>
<tbody>
<tr>
<td>CF\textsubscript{pollutant\textsuperscript{-final}}\textsuperscript{(2)}</td>
<td>1.43</td>
<td>1.5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CF\textsubscript{pollutant\textsuperscript{-temp}}\textsuperscript{(3)}</td>
<td>2.1</td>
<td>1.5</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

\textsuperscript{(1)} CO emissions shall be measured and recorded for all RDE tests.

\textsuperscript{(2)} CF\textsubscript{pollutant\textsuperscript{-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).

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

Amendment

Table 2a: Real Driving Emissions Conformity Factors\textsuperscript{(0a)}

<table>
<thead>
<tr>
<th>Pollutant</th>
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<tr>
<td>CF\textsubscript{pollutant\textsuperscript{-final}}\textsuperscript{(2)}</td>
<td>1 + margin, with margin = 0,43</td>
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<td></td>
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\textsuperscript{(0a)} In order to verify an individual error margin of PEM-Systems to complement or replace the
margins in table 2a in the Annex to this Regulation, the Commission shall take into account any CEN standards which provide a technically sound approach to assess RDE measurement error margin with respect to measuring gaseous and particle emissions (NOx and PN) with a view to determine a PEMS standard.

(1) CO emissions shall be measured and recorded for all RDE tests.

(2) $\text{CF}_{\text{pollutant}_{-\text{final}}}$ is the conformity factor used to determine compliance with the Euro 6 emission limits expressed as the sum of the target value for vehicle emissions performance and the technical uncertainties linked with the use of the Portable Emission Measurement Systems (PEMS), i.e. margin (of error).

(3) $\text{CF}_{\text{pollutant}_{-\text{temp}}}$ is the temporary conformity factor that may be used upon request of the manufacturer as an alternative to $\text{CF}_{\text{pollutant}_{-\text{final}}}$ during a period of 5 years and 4 months following the dates specified in Article 10(4) and (5).”
## PROCEDURE – COMMITTEE ASKED FOR OPINION

<table>
<thead>
<tr>
<th>Title</th>
<th>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</th>
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<tbody>
<tr>
<td>Committee responsible</td>
<td>ENVI 15.7.2019</td>
</tr>
<tr>
<td>Opinion by</td>
<td>TRAN 15.7.2019</td>
</tr>
<tr>
<td>Rapporteur</td>
<td>Sven Schulze 29.7.2019</td>
</tr>
<tr>
<td>Date adopted</td>
<td>19.2.2020</td>
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| Result of final vote | +: 38  
|                  | -: 7  
|                  | 0: 0                                                                           |
| Members present for the final vote | Andris Ameriks, José Ramón Bauzá Díaz, Marco Campomenosi, Jakop G. Dalunde, Rosa D’Amato, Johan Danielsson, Andor Deli, Karima Delli, Anna Deparnay-Grunenberg, Ismail Ertug, Giuseppe Ferrandino, Jens Gieseke, Elsi Katainen, Kateřina Konečná, Elena Kountoura, Julie Lechanteux, Boguslaw Liberadzki, Peter Lundgren, Benoît Lutgen, Elżbieta Katarzyna Łukacijewska, Marian-Jean Marinescu, Tilly Metz, Giuseppe Milazzo, Cláudia Monteiro de Aguiar, Jan-Christoph Oetjen, Rovana Plumb, Tomasz Piotr Poręba, Dominique Riquet, Massimiliano Salini, Sven Schulze, Vera Tax, Petar Vitanov, Elissavet Vozemberg-Vrionidi |
| Substitutes present for the final vote | Clotilde Armand, Tom Berendsen, Paolo Borchia, Josianne Cutajar, Clare Daly, Angel Dzhambazki, Valter Flego, Roman Haider, Pär Holmgren, Ondřej Kovařík, Robert Roos, Henna Virkkunen |
### FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

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<table>
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<td>38</td>
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<td>Rosa D'Amato</td>
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<td>0</td>
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</tbody>
</table>

Key to symbols:
- + : in favour
- - : against
- 0 : abstention