Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures

DIRECTIVE 1999/62/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 17 June 1999

on the charging of heavy goods vehicles for the use of certain infrastructures

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 71(1) and 93 thereof,

Having regard to the proposal from the Commission[(1)],

Having regard to the Opinion of the Economic and Social Committee[(2)],

Having regard to the Opinion of the Committee of the Regions[(3)]

Acting in accordance with the procedure laid down in Article 251 of the Treaty[(4)],

Whereas:

(1) The elimination of distortions of competition between transport undertakings in the Member States calls for both the harmonisation of levy systems and the establishment of fair mechanisms for charging infrastructure costs to hauliers;

(2) These objectives can be achieved only in stages;

(3) A degree of harmonisation of levy systems has already been achieved through the adoption of Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils[(5)] and Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils[(6)];

(4) By judgment of 5 July 1995 in Case C-21/94 European Parliament v. Council[(7)] the Court of Justice of the European Communities annulled Council Directive 93/89/EEC of 25 October 1993 on the application by Member States of taxes on certain vehicles used for the carriage of goods by road and tolls and user charges for the use of certain infrastructures[(8)], while preserving the effects of that Directive until the Council had adopted a new Directive; therefore, Directive 93/89/EEC is replaced by this Directive;

(5) Under present circumstances the adjustment of national levy systems should be confined to commercial vehicles of more than a certain gross laden weight;

(6) For this purpose minimum rates should be set for the vehicle taxes currently applied by the Member States or any which might succeed them;

(7) The use of road-friendly and less polluting vehicles should be encouraged through differentiation of taxes or charges, provided that such differentiation does not interfere with the functioning of the internal market;

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(8) It is appropriate that certain Member States may be granted a period of derogation from the minima to facilitate adaptation to the levels required by this Directive;

(9) Certain local domestic transport operations with little impact on the Community transport market are at present subject to reduced rates of vehicle tax; in order to ensure smooth transition, Member States should be authorised to lay down temporary derogations from minimum rates;

(10) Member States should be permitted to apply reduced rates or exemptions of vehicle taxes in the case of vehicles whose use is not liable to affect the Community transport market;

(11) In order to make allowance for certain special situations, a procedure should be laid down whereby Member States may be permitted to maintain further exemptions or reductions;

(12) Existing distortions of competition cannot be eliminated solely by harmonising taxes or fuel excise duties; however, until technically and economically more appropriate forms of levy are in place, such distortions may be attenuated by the possibility of retaining or introducing tolls and/or user charges for the use of motorways; in addition Member States should be allowed to levy charges for the use of bridges, tunnels and mountain passes;

(13) In view of the specific conditions on certain Alpine routes, it may be appropriate for a Member State to disapply a user charge system from a well defined section of its motorway network in order to permit application of an infrastructure related charge;

(14) Tolls and user charges should not be discriminatory nor entail excessive formalities or create obstacles at internal borders; therefore, adequate measures should be taken to permit the payment of tolls and user charges at any time and with different means of payment;

(15) The rates of user charges should be based on the duration of the use made of the infrastructure in question and be differentiated in relation to the costs caused by the road vehicles;

(16) Reduced rates of user charges should be applied temporarily for vehicles registered in Greece to take account of difficulties due to its geopolitical position;

(17) In order to ensure that user charges and tolls are applied homogeneously, certain rules for determining their manner of application should be laid down, such as the characteristics of the infrastructure to which they are applicable, the maximum levels of certain rates and other general conditions that will have to be complied with; weighted average tolls should be related to the costs of construction, operating and developing the infrastructure network concerned;

(18) Member States should be able to attribute to environmental protection and the balanced development of transport networks a percentage of the amount of the user charge or of the toll, provided that this amount is calculated in accordance with the provisions of this Directive;

(19) The amounts in this Directive expressed in the national currency units of Member States adopting the euro were fixed on 1 January 1999 when the value of the euro was determined in accordance with Council Regulation (EC) No 2866/98 of 31 December 1998 on the conversion rates between the euro and the currencies of the Member States adopting the euro[9]; it is appropriate that Member States not adopting the euro should review annually the amounts in this Directive in national currencies and adjust them where appropriate to take account of changes in the exchange rates; annual adjustments in national currencies may not be compulsory if the change resulting from the application of the new exchange rates is below a certain percentage level;

(20) The principle of territoriality should be applied; two or more Member States may cooperate for the purpose of introducing a common system of user charges, subject to compliance with some additional conditions;

(21) In accordance with the principle of proportionality, this Directive limits itself to the minimum required for the attainment of the objectives under the third paragraph of Article 5 of the Treaty;

(22) A strict timetable should be set for reviewing the provisions of this Directive and considering adjustments to them, if necessary, with the aim of developing a more territorial levy system,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

General provisions

Article 1

This Directive applies to vehicle taxes, tolls and user charges imposed on vehicles as defined in Article 2.

This Directive shall not affect vehicles carrying out transport operations exclusively in the non-European territories of the Member States.

It shall also not affect vehicles registered in the Canary Islands, Ceuta and Melilla, the Azores or Madeira and carrying out transport operations exclusively in those territories or between those territories and, respectively, mainland Spain and mainland Portugal.

Article 2

For the purposes of this Directive:

(a) ‘**[**F1trans-European road network’ means the road network defined in Section 2 of Annex I to Decision No 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community guidelines for the development of the trans-European transport network[10] as illustrated by maps. The maps refer to the corresponding sections mentioned in the operative part of and/or in Annex II to that Decision;**]**

(aa) **[**F2‘construction costs’ means the costs related to construction, including, where appropriate, the financing costs, of:

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— new infrastructure or new infrastructure improvements (including significant structural repairs), or

— infrastructure or infrastructure improvements (including significant structural repairs) completed no more than 30 years before 10 June 2008, where tolling arrangements are already in place on 10 June 2008, or completed no more than 30 years before the establishment of any new tolling arrangements introduced after 10 June 2008; costs regarding infrastructure or infrastructure improvements completed before these time limits may also be considered as construction costs where:

(i) a Member State has established a tolling system which provides for the recovery of these costs by means of a contract with a tolling system operator, or other legal acts having equivalent effect, which enter into force before 10 June 2008, or

(ii) a Member State can demonstrate that the case for building the infrastructure in question depended on its having a design lifetime in excess of 30 years.

In any event, the proportion of the construction costs to be taken into account shall not exceed the proportion of the current design lifetime period of infrastructure components still to run on 10 June 2008 or on the date when the new tolling arrangements are introduced, where this is a later date.

Costs of infrastructure or infrastructure improvements may include any specific expenditure on infrastructure designed to reduce nuisance related to noise or to improve road safety and actual payments made by the infrastructure operator corresponding to objective environmental elements such as protection against soil contamination;

(ab) 'financing costs' means interest on borrowings and/or return on any equity funding contributed by shareholders;

(ac) 'significant structural repairs' means structural repairs excluding those repairs no longer of any current benefit to road users, e.g. where the repair work has been replaced by further road resurfacing or other construction work;**]**

(ad) **[**F3'motorway' means a road specially designed and built for motor traffic, which does not serve properties bordering on it, and which:

(i) is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other either by a dividing strip not intended for traffic or, exceptionally, by other means;

(ii) does not cross at grade with any road, railway or tramway track, bicycle path or footpath; and

(iii) is specifically designated as a motorway;**]**

(b) **[**F4'toll' means a specified amount payable for a vehicle based on the distance travelled on a given infrastructure and on the type of the vehicle comprising an infrastructure charge and/or an external-cost charge;

(ba) 'infrastructure charge' means a charge levied for the purpose of recovering the construction, the maintenance, the operation and the development costs related to infrastructure incurred in a Member State;**]**

(bb) **[**F3'external-cost charge' means a charge levied for the purpose of recovering the costs incurred in a Member State related to traffic-based air pollution and/or traffic-based noise pollution;

(bc) 'cost of traffic-based air pollution' means the cost of the damage caused by the release of particulate matter and of ozone precursors, such as nitrogen oxide and volatile organic compounds, in the course of the operation of a vehicle;

(bd) 'cost of traffic-based noise pollution' means the cost of the damage caused by the noise emitted by the vehicles or created by their interaction with the road surface;

(be) 'weighted average infrastructure charge' means the total revenue of an infrastructure charge over a given period divided by the number of vehicle kilometres travelled on the road sections subject to the charge during that period;

(bf) 'weighted average external-cost charge' means the total revenue of an external-cost charge over a given period divided by the number of vehicle kilometres travelled on the road sections subject to the charge during that period;**]**

(c) **[**F1'user charge' means a specified amount payment of which confers the right for a vehicle to use for a given period the infrastructures referred to in Article 7(1);

(d) **[**F4'vehicle' means a motor vehicle or articulated vehicle combination intended or used for the carriage by road of goods and having a maximum permissible laden weight of over 3,5 tonnes;**]**

e) vehicle of the 'EURO 0', 'EURO I', 'EURO II', 'EURO III', 'EURO IV', 'EURO V', 'EEV' category means a vehicle that complies with the emission limits set out in Annex 0;

(f) 'type of vehicle' means a category into which a vehicle falls according to the number of its axles, its dimensions or weight, or other vehicle classification factors reflecting road damage, e.g. the road damage classification system set out in Annex IV, provided that the classification system used is based on vehicle characteristics which either appear in the vehicle documentation used in all Member States or are visually apparent;**]**

(g) '**[**F2concession contract' means a 'public works concession' or a 'service concession' as defined in Article 1 of Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts[(11)];

(h) 'concession toll' means a toll levied by a concessionaire under a concession contract.**]**

Textual Amendments

F1 Substituted by Directive 2006/38/EC of the European Parliament and of the Council of 17 May 2006 amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures.

F2 Inserted by Directive 2006/38/EC of the European Parliament and of the Council of 17 May 2006 amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures.