

# Approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles

2016/0014(COD) - 04/04/2017 - Text adopted by Parliament, partial vote at 1st reading/single reading

The European Parliament adopted by 585 votes to 77, with 19 abstentions, amendments on the 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.

The matter was referred back to the committee responsible for interinstitutional negotiations.

The main amendments adopted in plenary concern the following issues:

**An end to manipulation:** Members stated that consumer protection is a priority of the Union and that everything should be done to prevent cheating by car manufacturers designed to manipulate pollution emission and fuel consumption tests in order to produce false results or circumvent any other rules. Particular attention should be paid to the risk of illegal defeat devices.

This Regulation should ensure reliable, harmonised and transparent type-approval and market surveillance procedures in the Member States.

As consumer protection is a priority of the Union, manufacturers of vehicles circulating in the Union should be required to submit those vehicles for testing before being placed on the market and during their lifetime. Member States and the Commission should be guarantors of this double surveillance, the one being able to act where the other fails to do so.

**Responsibility of type-approval authorities and competent authorities:** the proposed amendments aim to clarify the roles and responsibilities of national type approval authorities, testing centres and market surveillance bodies, in order to reinforce their independence and prevent conflicts of interest.

Members proposed the following:

- Member States shall assess at least every three years the functioning of their type-approval activities and the quality of the type-approvals issued. They shall perform random market surveillance tests on at least 20 % of the new models placed on the Union market each year to verify whether the vehicles on the road comply with Union safety and environmental legislation;
- the approval authorities shall interpret and enforce the requirements of this Regulation in a uniform and consistent manner to avoid divergent standards being applied across the Union;
- Market surveillance authorities shall (i) perform regular checks to verify compliance with the requirements set out in this Regulation as well as with the correctness of the type approvals; (ii) prepare and submit a national market surveillance programme for approval by the Commission on an annual or multi-annual basis; (iii) to alert users within their territories within an adequate timeframe of non-compliance they have identified; (iv) inform, without delay, the Commission and the Member States where it considered that a vehicle is in breach of the Regulation.

Members proposed making publicly available the results of the national periodic reviews on the functioning of their surveillance activities.

The Commission shall be empowered to supervise the work of the national authorities by means of regular audits, checks and tests of samples of the type-approvals issued and verifying the uniform, consistent and effective application of this Regulation.

**Compliance verification testing by the Commission:** the European Commission may:

- oblige a Member State to carry out a compliance test which it considers necessary, or do the tests itself under certain conditions;
- oblige economic operators to take all necessary restrictive measures, including the recall of vehicles, so that non-compliant vehicles in question are brought into conformity.

Those tests and inspections shall be performed by means of, inter alia, laboratory tests and real-driving emissions tests, on the basis of statistically relevant samples, and shall be supplemented by documentary checks.

Where technical services are designated for the purposes of this Article, the Commission shall ensure that a different technical service is used from the technical service that performed the original type approval test.

**Manufacturers responsibility:** the manufacturer shall be responsible to the approval authority for all aspects of the approval procedure and for ensuring conformity of production regardless of testing method used.

The manufacturer shall: (i) ensure that the design of the vehicles does not incorporate strategies that unnecessarily alter the performance exhibited during applicable test procedures when those vehicles are operated under conditions that might reasonably be expected to be encountered in normal operation and use; (ii) disclose any engine management strategies which might be deployed, either through hardware or software means; (iii) investigate and keep a register of complaints and non-conformities of vehicles, systems, components, separate technical units, parts or equipment that he placed on the market and keep his importers and distributors informed of such monitoring. If the number of complaints and non-conformities concerning safety or emission related equipment exceed 30 cases or 1 per cent of the total of vehicles, detailed information shall be sent to the relevant approval authority responsible.

**Forum for enforcement:** Members proposed strengthening the Forums powers. Its tasks shall be extended to: (i) the consideration of substantiated complaints, evidence or other relevant information presented by recognised third parties of possible non-compliance; (ii) the joint discussion and assessment of the national market surveillance programmes following their submission to the Commission; (iii) the review of the results of assessments of the functioning of market surveillance.

**Fees:** Members proposed that the costs for their type-approval and market surveillance activities shall be covered by the Member States either

through their national budgets, a fee-based structure (where national fees are levied on the manufacturers who have applied for type-approval in the Member State concerned), or apply a combination of both methods.

Penalties: the proposal provides that the Commission may impose administrative fines (of up to EUR 30 000 per vehicle) on the manufacturer concerned in breach of the Regulation. Administrative fines levied by the Commissions may be used for the purposes of market surveillance measures and for measures to support persons negatively affected by infringements of this Regulation or other such activities to the benefit of affected consumers and, where appropriate, environmental protection.

In cases of non-conformity the consumer may face personal damage or damage to their own property. In such cases the consumer should be entitled to pursue compensation under relevant legislation addressing defective products or non-conforming goods.

Database: Members proposed that the Commission should establish an online type-approval database for the secure electronic exchange of information related to type-approval procedures, authorisations issued and market surveillance.