



Transport, Telecommunications and Energy Council
(Transport issues)
Luxembourg, 7 June 2018

Chair: Ivaylo Moskovski, Bulgarian Minister for Transport, Information Technology and Communications

The **meeting** will **start** at 9.30.

The Council will adopt a general approach on the proposed regulation on **safeguarding competition in air transport**.

The Council will also be asked to adopt a general approach on a draft directive on **port reception facilities** for the delivery of waste from ships.

Ministers will take stock of progress on key proposals relating to **market access** and **social aspects** of the road transport sector under the first mobility package. These proposals include new rules for drivers' **driving and rest times**, positioning by means of **tachographs**, the **posting** of drivers to other member states in which they operate, **cabotage** rules and **establishment** rules for road transport operators.

The Council will be asked to adopt a general approach on two other proposals which are part of the same package: draft directives on **electronic road tolling and exchange of information**, and on the use of **hired vehicles**.

Ministers will assess progress on two draft directives under the second mobility package, which aim to promote **combined transport** and **clean road transport vehicles**.

Ministers will also take stock of progress on a proposal to update **rail passenger rights**.

Other topics on the agenda include the presentation by the Commission of the **third wave of its mobility proposals**, adopted in May.

Lastly, the incoming Austrian presidency will present its **work programme**.

Over lunch, ministers will discuss EU financing for transport as well as better transport connectivity in the EU and the Western Balkan region through a sustainable funding architecture.

Press conference: +/- 19.00

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[Video streaming of press conferences and public events](#)

[Video coverage in broadcast quality \(MPEG4\) and photo gallery](#)

¹ This note has been drawn up under the responsibility of the Press Office.

Safeguarding competition in air transport

The Council will adopt its position ('**general approach**') on the proposed regulation on **safeguarding competition in air transport**. The [proposal](#), presented by the Commission in June 2017, aims to ensure fair competition between EU airlines and third-country carriers while maintaining conditions conducive to a high level of connectivity. It is part of the [aviation strategy for Europe](#), presented by the Commission in December 2015.

There is currently no international framework governing competition among air carriers. Air transport services have largely been excluded from the World Trade Organisation (WTO) agreements, such as the General Agreement on Trade in Services (GATS), and no specific rules on these issues have emerged within the International Civil Aviation Organisation (ICAO).

Fair competition conditions between air carriers can be addressed in the context of air transport or air services agreements. However, most such agreements that the EU or its member states have with non-EU countries do not so far include fair competition rules.

The EU has a [regulation](#) which was intended to address these issues through unilateral EU action, but it has never been used in practice. The regulation has several shortcomings: for example, the practices covered are limited, findings are difficult to prove and the rules for opening an investigation are restrictive. It is therefore unlikely that it will ever be applied.

The Commission has proposed a new regulation to replace the existing one. The proposal lays down common rules on proceedings, including for the initiation and conduct of the investigation and its conclusion with or without redressive measures.

In its [compromise proposal](#), the presidency proposes a number of changes to the original proposal. For example, the same procedure would apply regardless of the type of aviation agreement (comprehensive/bilateral air transport agreement). The text also reinforces the assessment of Union interest to determine whether this calls for intervention. The Commission would be allowed to launch an investigation even when a bilateral aviation agreement provides for a dispute settlement mechanism, but the investigation may be suspended for 12 months at the request of all the member states concerned, in order to give member states the opportunity to seek a solution exclusively on a bilateral basis. In addition, the presidency proposes deleting the 'threat of injury' as a ground for initiating proceedings.

Regarding the procedure for adopting redressive measures, the presidency proposes a Commission implementing act in the case of financial duties, and a Council decision in the case of any measures of operational nature. Also, traffic rights are explicitly excluded as a possible redressive measure.

How will the text become law? For it to be adopted, the text will need to be approved by both the Council and the European Parliament. The Parliament adopted its position in March 2018.

Port reception facilities

The Council will be asked to adopt a **general approach** on updated rules on **port reception facilities for the delivery of waste from ships**. The proposed directive aims to enhance protection of the marine environment by reducing waste discharges at sea and to improve the efficiency of maritime operations in port by reducing the administrative burden.

Operational discharges of waste from ships form a significant threat to the marine environment. To reverse this trend, in 2000 the EU adopted a [directive on port reception facilities for ship-generated waste and cargo residues](#) (the PRF directive), which seeks to ensure the availability of port reception facilities and the delivery of waste to those facilities. While this directive has been instrumental in reducing waste discharges at sea, the problem persists. Adequate port reception facilities are not always available in ports, enforcement is often insufficient and there are not enough incentives to bring the waste onshore.

The PRF directive also implements the relevant international norms contained in the International Convention for the Prevention of Pollution from Ships (MARPOL). However, since the adoption of the directive the MARPOL Convention has been amended to include stricter discharge rules for ships.

The [Commission proposal for a revised directive](#), presented in January 2018, provides incentives to deliver the waste on land. In particular, ships would have to pay an indirect fee, which would give them the right to deliver their waste to the port and which would have to be paid regardless of whether they deliver any waste or not. This means they would not gain any financial advantage by dumping waste at sea.

Fishing vessels and recreational craft would be included in this indirect fee system, so it would also address the disposal of end-of-life fishing nets and passively-fished waste.

The fee collected would be based on the principle of cost recovery.

Under the 'green ship' concept a reduced waste fee would be applied for ships that can demonstrate sustainable waste management on board.

The proposal would align EU legislation to the MARPOL Convention. It would also make the directive consistent with EU waste legislation, for example by stipulating that each port must have waste reception and handling plans.

The presidency [compromise](#) proposal allows member states to supplement cost recovery by alternative funding systems. To avoid a disproportionate burden, landlocked member states which do not have ports or ships flying their flag will not be obliged to transpose the directive or certain parts of it.

How will the text become law? For it to be adopted, the text must be approved by both the Council and the European Parliament. The Parliament has not yet adopted its position.

[Proposal for a new directive on port reception facilities aims to tackle sea-based sources of marine litter \(Commission website\)](#)

Key road transport proposals on market access and social aspects

The Council will **take stock of progress on core proposals relating to market access and social aspects under the first mobility package** ([progress report](#)). These proposals, which concern road transport, aim to ensure a balance between adequate working conditions for drivers and the freedom to provide cross-border services for operators. They include new rules on access to the occupation of haulier and access to the road haulage market (including cabotage); rest and driving times and tachographs; posting of road transport workers; and enforcement legislation. The proposals were presented by the Commission in June 2017.

Commission proposals

The proposals on **access to the occupation and the market** seek to tighten and harmonise establishment conditions for hauliers and to improve member states' cooperation in fighting letterbox companies. They would allow for any number of cabotage operations within 5 days of the international delivery, as opposed to 3 operations within 7 days in the [current legislation](#). The Commission proposes to remove the restriction on the number of operations as it has proved difficult to control in practice. The proposal also introduces licencing rules for light commercial vehicles.

The EU's [driving time regulation](#) lays down maximum daily and weekly driving times as well as minimum breaks and rest periods for lorry and bus drivers. The Commission proposal aims to create conditions for drivers to spend extended periods at home, if they wish. A more flexible distribution of weekly rest would allow drivers to build up resting time so that, after three weeks, they would be able to spend four days at home. The minimum resting and maximum driving times would remain unchanged.

The proposal also gives some flexibility for drivers to continue driving to a suitable accommodation even when the daily or weekly rest is due, unless this would jeopardise road safety.

The Commission proposal specifies that the regular weekly rest (45 hours and more) cannot be taken in a vehicle. The employer would have to pay for suitable accommodation, unless the rest is taken at home.

EU rules on the **posting of workers** aim to guarantee the same pay for the same work in the same place. The proposed sector-specific rules for road transport workers seek to clarify the application of this principle in road transport.

Under the Commission's proposal, certain rules on the posting of workers – the minimum wage and annual paid holidays of the host country – would kick in after the driver has spent three days during one calendar month in the host country carrying out international haulage operations. This time threshold would not apply to cabotage, since in that case the entire transport operation takes place in the host state and all posting rules would apply from the first day.

Enforcement would be improved in particular through the use of tachograph data for the purpose of the posting and cabotage rules ([current tachograph regulation](#)). The proposal also strengthens information sharing between member states to enhance enforcement.

Work in the Council

In the Council, all delegations agree that these proposals are so interlinked that they must be advanced in parallel.

In extensive discussions in the Council working party, considerable progress has been made on technical and some political issues. However, a number of sensitive issues remain outstanding, such as cabotage rules, organisation of weekly rest periods and where to take them, the frequency of the right to 'return to home', retrofitting of vehicles with smart tachographs, and special rules on posting drivers (in terms of their scope, grace period and control).

In the meantime, the proposal for a general posting of workers directive, in relation to which the rules on the posting of hauliers form a *lex specialis*, has been agreed with the European Parliament ([press release](#)).

How will these proposals become law? The Council and the European Parliament must agree on the texts before they can enter into force. For the Parliament, a committee vote is scheduled for 4 June.

[Europe on the move \(information on Commission proposals\)](#)

Electronic road tolling and exchange of information

The Council is due to adopt a **general approach** on a draft directive on **electronic road tolling and exchange of information**. The aim of the proposal is to allow road users to pay electronic tolls across the EU with one on-board unit, one contract and one invoice. The new rules would also make it easier to recover unsettled road fees from drivers of vehicles registered in another EU country.

While some cross-border interoperability in electronic toll systems has been achieved on the basis of the [current directive on European Electronic Toll Services \(EETS\)](#), in many EU countries only national on-board units can be used to pay tolls. Due to the lack of interoperability, for example a lorry driver passing through different countries must have an on-board unit for each national system.

The revision of the directive, [proposed by the Commission](#) in June 2017 under the first mobility package, aims to achieve more complete interoperability of toll services for instance by removing administrative barriers, such as local technical specifications, and by giving EETS providers easier access to the toll collection market.

Another issue is the current difficulty for member states to pursue the payment of tolls by owners of foreign vehicles. When an EU country detects a tolling offence with an automatic enforcement device, it cannot identify the offender on the basis of the licence plate if the vehicle is registered abroad. There is no EU-wide legal basis for the exchange of vehicle registration data between

member states for the purpose of toll collection. This hampers the application of 'user pays' and 'polluter pays' principles as well as the further deployment of electronic tolling systems. It also results in loss of revenue for national, regional and local tolling schemes.

Under the **proposal**, EU countries will grant other member states' national contact points access to national vehicle registration data to allow them to identify the vehicle and the owner or holder of the vehicle for which a road fee remains unpaid. The tool to be used for this exchange of information will be the same as the system used for sharing information on road safety-related traffic offences under the [directive adopted in 2015](#). The possible administrative or legal consequences will depend on the national law of the country where the failure to pay a road toll took place.

In its [compromise proposal](#), the presidency has, among other things, strengthened and clarified rules on data protection in the context of information exchange, reinforced the list of technologies to be used in the deployment of the EETS by moving it from the annex to the main text, and incorporated the necessary elements of a related Commission decision on the detailed aspects of achieving interoperability and ensuring the functioning of the market.

How will the text become law? For it to be adopted, the text must be approved by both the Council and the European Parliament. The Parliament has not yet adopted its position.

[Europe on the move \(information on Commission proposals\)](#)

[Intelligent pricing systems - Electronic pricing and payment \(Commission website\)](#)

Hired vehicles

The Council will be asked to adopt a **general approach** on a proposal to **update the rules on hired vehicles**. The proposal, presented by the Commission in May 2017 under the first mobility package, aims to establish a clear and uniform regulatory framework for the market of hired vehicles. It also seeks to soften the restrictions on using hired vehicles in international transport, as hired vehicles tend to be newer, safer and less polluting. Broader possibilities for hiring vehicles would give transport operators more flexibility to carry out their transport activities in a more efficient way.

The [current directive](#) provides for a minimum level of market opening for the use of vehicles hired without drivers for the transport of goods by road. However, it allows member states to restrict the use of hired vehicles above six tonnes for own-account operations. It also restricts the use of vehicles hired in a member state other than that in which the company hiring is established.

Under the [Commission proposal](#), EU countries would no longer be able to restrict the use of hired vehicles for own-account operations. In addition, while member states would still be able to limit the use of a vehicle hired in another member state, they would have to allow it to be used for at least four months, so that transport companies would be able to meet peak demand and replace defective vehicles. A limitation of the rental period is considered necessary to prevent possible fiscal distortions due to significant differences in road vehicle taxation among member states.

The presidency [compromise text](#) maintains the Commission's proposal on own-account operations. However, to meet member states' concerns regarding the erosion of vehicle tax income, the presidency proposes allowing member states to limit hire contracts for foreign vehicles to a period of 30 consecutive days per year and to cap the proportion of hired vehicles to 25% of the total vehicle fleet.

How will the text become law? For it to be adopted, the text will need to be approved by both the Council and the European Parliament. The Parliament adopted its position in May.

[Europe on the move \(information on Commission proposals\)](#)

Combined transport

The Council will **take stock of progress** made on a proposal to **promote the use of combined transport over long-distance road freight** ([progress report](#)). The objective is to encourage the shift from road to lower emission transport modes such as inland waterways, maritime transport and rail. This would improve the quality of air and reduce congestion on roads.

The [draft directive](#), presented by the Commission in November 2017 under the second mobility package, revises the 1992 combined transport directive, which is the only legal instrument at EU level to directly incentivise a modal shift in goods transport.

The proposal broadens the scope of the [current directive](#) to include national intermodal operations. Such operations make up 19.5% of total intermodal transport in the EU but do not benefit from the support measures under the current directive.

The proposal also adds flexibility to the length of the road leg, specifies the requirements on evidence needed for combined transport operations and extends economic support measures, in particular investments into transshipment terminals. Member states should implement additional economic support measures, such as tax exemptions, and coordinate them among themselves and with the Commission.

In the **Council**, delegations have welcomed the revision of the directive and its objective to further promote the modal shift. The working party has made substantial progress on the proposal, but a number of issues still need further clarification. In particular, delegations have stressed the link between this proposal and the ongoing negotiations on the proposed rules on the posting of drivers and on cabotage in international transport. The current presidency text therefore considers the application of these legislative acts to combined transport as an issue to be decided once an agreement has been reached on those proposals.

How will the text become law? For it to be adopted, the text will need to be approved by both the Council and the European Parliament. The Parliament has not yet adopted its position.

[Clean mobility package \(information on Commission proposals\)](#)

[Multimodal and combined transport \(Commission website\)](#)

Clean vehicles

The Council will **look at the progress** made on a proposal to **promote the market uptake of clean and energy-efficient vehicles** by encouraging public bodies to choose them in public procurement ([progress report](#)).

An evaluation of the [current clean vehicles directive](#) from 2009 showed that the directive has not triggered sufficient market uptake of clean vehicles across the EU and that it has only had a limited impact on reducing greenhouse gas and air pollutant emissions.

The Commission therefore [proposed an amending directive](#) in November 2017 as part of its second mobility package. The proposal aims to increase the market uptake of low- and zero-emission vehicles in public procurement and hence to contribute to the reduction of overall transport emissions and competitiveness and growth in the transport sector.

To achieve this, the proposal extends the scope of the existing directive to cover all relevant procurement practices, introduces a definition of a 'clean vehicle' and sets minimum procurement targets for clean vehicles for 2025 and 2030.

In the **Council**, the proposal is being discussed in the working party, where delegations have welcomed the objective of reducing emissions. The discussions have identified the definition of a 'clean vehicle' and the level and implementation of the procurement targets as key issues. Further work is needed at working party level to make progress on this file.

How will the text become law? For it to be adopted, the text will need to be approved by both the Council and the European Parliament. The Parliament has not yet adopted its position.

[Clean mobility package \(information on Commission proposals\)](#)

Rail passenger rights

The Council will **take stock of progress** on a draft regulation updating **rail passengers' rights** ([progress report](#)).

The [proposal](#), which was presented by the Commission in September 2017, revises the [current regulation](#) from 2007, which applies to both domestic and international journeys and services.

The revision aims to introduce the concept of force majeure in the provision of rail services, cut down exemptions to the rules and improve the rights of persons with disabilities and reduced mobility. It would also encourage the offer of 'through-tickets', which cover successive railway services possibly operated by several companies.

The current rules as interpreted by the EU Court of Justice do not allow railway companies to be exempted from compensating passengers for delays caused by force majeure. This distinguishes rail from other transport modes and is perceived by rail companies as being discriminatory. To remedy this, the proposal introduces a force majeure clause that would apply in exceptional situations caused by severe weather conditions and natural disasters.

Member states may currently exempt certain domestic services from the application of the regulation. The proposed rules would curtail these possibilities significantly.

In addition, the proposal strengthens provisions on assistance and information for people with disabilities or with reduced mobility. It also seeks to improve enforcement of the rules in general by setting out more detailed complaint-handling procedures and deadlines.

In the **Council**, the working party has carried out the first article-by-article examination of the proposal, but substantial further work is still needed before the Council can form its position.

How will the text become law? For it to be adopted, the text will need to be approved by both the Council and the European Parliament. The Parliament has not yet adopted its position.

[European Commission modernises European rail passenger rights \(Commission website\)](#)

Other business

- Mobility package III
Information from the Commission
- Action plan on military mobility
Information from the Commission
- Update on the implementation of the EU cycling strategy
Information from the Commission, requested by the Belgian, Luxembourg and the Netherlands delegations
- Follow-up on the Amsterdam declaration: Third high-level dialogue on automated and connected driving (Gothenburg, 18 - 19 June 2018)
Information from the Swedish delegation
- Functioning of the fair competition framework in the aviation sector within the EU
Information from the Greek delegation
- EU summer-time arrangements
Information from the Commission on the state of play, requested by the Finnish delegation
- Work programme of the incoming presidency
Information from the Austrian delegation