



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 18 January 2014
(OR. en)**

6245/14

**Interinstitutional File:
2013/0165 (COD)**

**ENT 37
MI 134
CODEC 341**

NOTE

From:	Presidency
To:	Working Party on Technical Harmonisation (Motor Vehicles)
No. Cion doc.:	11124/13 ENT 194 MI 558 CODEC 1506
Subject:	Proposal for a Regulation of the European Parliament and of The Council concerning type-approval requirements for the deployment of the eCall in-vehicle system and amending Directive 2007/46/EC

Delegations will find attached a document based on the discussions of the Working Party on 16 January 2014. This document also contains drafting proposals from the Presidency.

Delegations are informed that new text compared to the Commission's proposal is indicated by **bold/underlining** and deletions are marked with ~~strikethrough~~. Text in square brackets [] indicates areas where uncertainties remain or where alternative drafting is suggested. **Highlighted** text shows changes compared to the previous document.

2013/0165 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**concerning type-approval requirements for the deployment of the eCall in-vehicle system and amending Directive 2007/46/EC**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,

Having regard to the proposal of the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the European Data Protection Supervisor,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) A comprehensive Union type-approval system for motor vehicles has been established by Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 on establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive)².

¹ OJ C [...], [...], p. [...].

² OJ L 263, 9.10.2007, p.1.

- (2) The technical requirements for the type-approval of motor vehicles with regard to numerous safety and environmental elements have been harmonised at Union level in order to ensure a high level of road safety throughout the Union.
- (3) In order to further improve road safety, the Communication "eCall: Time for Deployment"³ proposes new measures to accelerate the deployment of an in-vehicle emergency call service in the Union. One of the suggested measures is to make mandatory the fitting of eCall in-vehicle systems in all new **types of** vehicles starting with M1 and N1 vehicle categories as defined in Annex II to Directive 2007/46/EC.
- (4) On 3 July 2012, the European Parliament approved the Report on eCall: a new 112 service for citizens⁴ urging the Commission to submit a proposal within the framework of Directive 2007/46/EC in order to ensure the mandatory deployment of a public, 112-based eCall system by 2015.
- (5) The Union eCall system is expected to reduce the number of fatalities in the Union as well as the severity of injuries caused by road accidents. The mandatory introduction of the eCall system would make the service available to all citizens and thus contribute to reduce human suffering and healthcare and other costs.
- (6) The provision of accurate and reliable positioning information is an essential element of the effective operation of the eCall in-vehicle system. Therefore, it is appropriate to require its compatibility with the services provided by satellite navigation programmes, including the systems established under the Galileo and EGNOS programmes set out in Regulation (EC) No 683/2008 of the European Parliament and of the Council of 9 July 2008 on the further implementation of the European satellite navigation programmes (EGNOS and Galileo)⁵.
- (7) The mandatory equipping of vehicles with the eCall in-vehicle system should initially apply only to new **types of** passenger cars and light commercial vehicles (categories M1 and N1) for which an appropriate triggering mechanism already exists.
- (8) The mandatory equipping of vehicles with the eCall in-vehicle system should be without prejudice to the right of all stakeholders such as car manufacturers and independent operators to offer additional emergency and/or added value services, in parallel with or building on the 112-based eCall in-vehicle system. However, these additional services should be designed not to increase driver distraction.
- (9) In order to ensure open choice for customers and fair competition, as well as encourage innovation and boost the competitiveness of the Union's information technology industry on the global market, the eCall in-vehicle system should be accessible free of charge and without discrimination to all independent operators and based on an interoperable and open-access platform for possible future in-vehicle applications or services.

³ COM (2009) 434 final.

⁴ 2012/2056(INI).

⁵ OJ L 196, 24.7.2008, p.1.

- (10) In order to maintain the integrity of the type-approval system, only those eCall in-vehicle systems which can be fully tested should be accepted for the purposes of this Regulation.
- (11) Small series vehicles are excluded under Directive 2007/46/EC from the requirements on the protection of occupants in the case of frontal impact and side impact. Therefore, those small series vehicles should be excluded from the obligation to comply with the eCall requirements.
- (12) Special purpose vehicles should be subject to compliance with the eCall requirements set out in this Regulation, unless type-approval authorities consider, on a case by case basis, that the vehicle cannot meet those requirements due to its special purpose.
- (13) According to the recommendations made by the Article 29 Data Protection Working Party and contained in the 'Working document on data protection and privacy implications in eCall initiative', adopted on 26 September 2006⁶, any processing of personal data through the eCall in-vehicle system should comply with the personal data protection rules provided for in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁷ and in Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)⁸, in particular to guarantee that vehicles equipped with eCall in-vehicle systems, in their normal operational status related to 112 eCall, are not traceable and are not subject to any constant tracking and that the minimum set of data sent by the in-vehicle eCall system includes the minimum information required for the appropriate handling of emergency calls.
- (14) The European Standardisation Organisations, ETSI and CEN, have developed common standards for the deployment of a pan-European eCall service, which should apply for the purposes of this Regulation, as this will facilitate the technological evolution of the in-vehicle eCall service, ensure the interoperability and continuity of the service throughout the Union, and reduce the costs of implementation for the Union as a whole.

⁶ 1609/06/EN – WP 125.

⁷ OJ L 281, 23.11.1995, p. 31.

⁸ OJ L 201, 31.7.2002, p. 37.

- (15) In order to ensure the application of common technical requirements regarding the eCall in-vehicle system, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the detailed rules on the application of the relevant standards, on testing, on personal data and privacy protection and on exemptions for certain vehicles or classes of vehicles of categories M1 and N1. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (16) Vehicle manufacturers should be allowed sufficient time to adapt to the technical requirements of this Regulation.
- (17) This Regulation is a new separate Regulation in the context of the EC type-approval procedure provided for by Directive 2007/46/EC and therefore, Annexes I, III, IV, VI, IX and XI to that Directive should be amended accordingly.
- (18) Since the objectives of this Regulation, namely the achievement of the internal market through the introduction of common technical requirements for new type approved vehicles equipped with the eCall in vehicle system, cannot be sufficiently achieved by the Member States and can, therefore, by reason of its scale, be better achieved at the level of the Union, the Union may adopt measures in accordance with the principle of subsidiarity set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

Article 1
Subject matter

This Regulation establishes the ~~technical~~ **general** requirements for the EC type-approval of vehicles regarding the eCall in-vehicle system.

Article 2
Scope

This Regulation shall apply to vehicles of categories M1 and N1 as defined in points 1.1.1. and 1.2.1. **of Part A** of Annex II to Directive 2007/46/EC.

Article 3
Definitions

For the purpose of this Regulation and in addition to the definitions laid down in Article 3 of Directive 2007/46/EC and in Article 2 of Commission Delegated Regulation (EU) No 305/2013⁹, the following definitions shall apply: ¹⁰

- (1) 'e-Call in-vehicle system' means a system activated either automatically via in-vehicle sensors or manually,¹¹ which carries, by means of **public** mobile wireless communications networks, a standardised minimum set of data and establishes a 112-based audio channel between the occupants of the vehicle and a public safety answering point;
- (2) 'in-vehicle system' means the in-vehicle equipment¹² together with the means to trigger, manage and effect the eCall transmission via a public mobile wireless communications network providing a link between the vehicle and a means of enacting the eCall service via a public mobile wireless communications network.

13 14

⁹ OJ L 91, 03.04.2013, p. 1.

¹⁰ SE: the combination of definitions (1) and (2) is confusing, delete (2).

BG, CZ, FR: the two definitions are very similar, a single concept is needed.

¹¹ BE: the 112-based eCall should be restricted to the automatically activated eCall (MD eC 03/14)

¹² RO: add "as defined in Commission Delegated Regulation (EU) No 305/2013" and delete the phrase "via a public wireless communications network" (MD eC 01/14) BG: supports.

¹³ DE, FR, UK: include a definition for "third party services provider".

¹⁴ SI: add definitions for "activation of the eCall system" and "normal operational status".

Article 4
General obligations of the Manufacturers

Manufacturers shall demonstrate that all new types of vehicles referred to in Article 2 are equipped with an eCall in-vehicle system, in accordance with this Regulation and the delegated acts adopted pursuant to this Regulation.

Article 5
Specific obligations of manufacturers

1. Manufacturers shall ensure that all their new types of vehicle are manufactured and approved in accordance with the requirements set out in this Regulation and the delegated acts adopted pursuant to this Regulation.
2. Manufacturers shall demonstrate that all their new types of vehicle are constructed to ensure that in the event of a severe accident¹⁵ which occurs in the territory of the Union, an eCall to the single European emergency number 112¹⁶ is triggered automatically.

Manufacturers shall demonstrate that new **types of** vehicles are constructed as to ensure that an eCall to the single European emergency number 112 can also be triggered manually.

3. Manufacturers shall ensure that the receivers in the **eCall** in-vehicle systems are compatible with the positioning services provided by satellite navigation systems including the Galileo and the EGNOS systems.
4. Only those eCall in-vehicle systems which can be tested shall be accepted for the purposes of **EC** type-approval.

17

¹⁵ BG, CZ, ES, FR, UK: the notion of "severe accident" needs to be clarified.

¹⁶ SE: add "or to a private equal number", a private system should be permitted to run in parallel to the public system.

¹⁷ RO: add a new paragraph as follows: (MD eC 01/14)
"4a) EC type-approval in respect of the eCall in-vehicle system shall also include tests with PSAP's (Public-Safety Answering Point - Center Answering emergency) qualified for the interoperable EU-wide eCall service, using "eCall discriminator" implemented in networks mobile communications based on the single European emergency number 112."

~~5. eCall in-vehicle systems shall comply with the requirements of Directive 1999/5/EC¹⁸ and UNECE Regulation No 10¹⁹.~~

- 6.²⁰ The eCall in-vehicle system shall be accessible²¹ to all independent operators²² free of charge²³ and without discrimination at least for repair and maintenance purposes.
7. The Commission shall be empowered to adopt delegated acts in accordance with Article 9 establishing the detailed technical requirements and tests for the type-approval of eCall in-vehicle systems and amending Directive 2007/46/EC accordingly.

The technical requirements and tests referred to in the first subparagraph shall be based on the requirements set out in paragraphs 2, 3, 4 and 6 and on the following standards, where applicable:

(-a) EN 15722 ‘eCall minimum set of data’;

- (a) EN 16072 ‘Intelligent transport system-ESafety-PanEuropean eCall-Operating requirements’;
- (b) EN 16062 ‘Intelligent transport systems-ESafety-ECall high level application requirements (HLAP)’;
- (c) EN 16454 ‘Intelligent transport systems - eSafety - eCall end to end conformance testing’, as regards the eCall in-vehicle system conformance to the pan-European eCall;
- (d) any additional European standards or UNECE Regulations relating to eCall systems.

¹⁸ — ~~OJ L 91, 7.4.1999, p.10.~~

¹⁹ — ~~OJ L 254, 20.9.2012, p.1.~~

²⁰ ~~IT: paragraph 6 is superfluous.~~

²¹ ~~FR, UK: which data shall be accessible?~~

²² ~~RO: clarify who are the independent operators.~~

²³ ~~FR, SE: there should be a fee.~~

Article 6
Rules on privacy and data protection

1. In accordance with Directive 95/46/EC and Directive 2002/58/EC, manufacturers shall ensure that vehicles equipped with eCall in-vehicle system are not traceable and are not subject to any constant tracking in their normal operational status²⁴ related to the eCall.

Privacy enhancing technologies shall be embedded in the in-vehicle eCall system in order to provide eCall users with the desired level of privacy protection, as well as the necessary safeguards to prevent surveillance and misuse.

2. The minimum set of data sent by the eCall in-vehicle system shall include only the minimum information required for the appropriate handling²⁵ of emergency calls.
3. Manufacturers shall ensure that eCall users are provided with clear and comprehensive information about the processing of data carried out through the eCall in-vehicle system, in particular about:
- (a) the reference to the legal basis for the processing;
 - (b) the fact that the eCall in-vehicle system is activated by default;
 - (c) the modalities of data processing that the eCall in-vehicle system performs;
 - (d) the purpose of the eCall processing;
 - (e) the types of data collected and processed and the recipients of that data,
 - (f) the time limit for the retention of data in the **eCall** in-vehicle system;
 - (g) the fact that there is no constant tracking of the vehicle;
 - (h) the modalities for exercising data subjects' rights;
 - (i) any necessary additional information regarding the processing of personal data in relation to the provision of a private eCall service and/or other added value services.

26

²⁴ PT: "normal operational status" needs to be clarified.

²⁵ ES: what does "minimum information" and "appropriate handling" mean ?

²⁶ RO: add a new paragraph as follows: (MD eC 01/14)

"3a. The producers shall implement all the necessary measures in order to ensure the security and the confidentiality of personal data processed through the eCall system incorporated in the vehicle."

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 9 which shall define further the requirement of the absence of traceability and tracking and the privacy enhancing technologies referred to in paragraph 1 as well as the modalities of the private data processing and of the user information referred to in paragraph 3.

Article 7
Obligations of the Member States

With effect from ~~1 October 2015~~ **[date of application referred to in Article 12]**, national authorities shall only grant EC type-approval in respect of the eCall in-vehicle system to new types of vehicles which comply with this Regulation and the delegated acts adopted pursuant to this Regulation.

Article 8
Exemptions ²⁷

1. The Commission may exempt certain vehicles or classes of vehicles of categories M1 and N1 from the obligation to install eCall in-vehicle systems set out in Article 4, if following a cost/benefit analysis, carried out or mandated by the Commission, and taking into account all relevant safety aspects, the application of those systems proves not to be appropriate to the vehicle or class of vehicles concerned.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 9 setting out the exemptions referred to in paragraph 1. Those exemptions shall cover vehicles such as special purpose vehicles and vehicles without airbags and be limited in number.

²⁷ **RO:** replace the existing paragraphs 1 and 2 by the following text: (MD eC 01/14)
"1. The vehicles for which the EC type-approval of small series is applicable are exempted from the obligation to install eCall in-vehicle systems set out in Article 4.
2. The type-approval authorities may exempt certain special purpose vehicles from the obligation to install eCall in-vehicle systems set out in Article 4, if these vehicles cannot meet the eCall requirements set out in this Regulation due to their special purpose."

Article 9
*Exercise of the delegation*²⁸

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 5 (7), Article 6(4) and in Article 8(2) shall be conferred on the Commission for an indeterminate period of time²⁹ from [...] [Publications Office, please insert the exact date of entry into force].
3. The delegation of powers referred to in Article 5(7), in Article 6(4) and in Article 8(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 5(7), Article 6(4) and Article 8(2), shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

²⁸ PL: the acts provided for in this Article should be adopted by means of implementing acts and not delegated acts.

²⁹ BG, FR, IT, SE, UK: 5 years.

Article 10
Penalties for non-compliance

1. Member States shall lay down the rules on penalties applicable to non-compliance by manufacturers with the provisions of this Regulation and **the delegated acts adopted pursuant to this Regulation.** **They** shall take all measures to ensure that ~~they~~ **the penalties** are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall notify those provisions to the Commission, and shall notify it without delay of any subsequent amendment affecting them.
2. The type of non-compliance which is subject to a penalty shall include at least the following:
 - (a) making a false declaration during an approval procedure or a procedure leading to a recall;
 - (b) falsifying test results for type-approval;
 - (c) withholding data or technical specifications which could lead to recall or withdrawal of type-approval.

Article 11
Amendments to Directive 2007/46/EC

Annexes I, III, IV, VI, IX³⁰ and XI to Directive 2007/46/EC are amended in accordance with the Annex to this Regulation.

³⁰ AT, DE, FR, IT: Annex IX should not be amended.

Article 12
Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 October 2015.³¹ This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

³¹ CZ, DE, ES, MT, NL, PL, RO: 36 months after publication.

ANNEX

Amendments to Directive 2007/46/EC

Directive 2007/46/EC is amended as follows:

- (1) In Annex I, the following points 12.8., ~~and~~ 12.8.1. **and 12.8.2** are added:

“12.8 eCall system

12.8.1 Presence: yes/no (1)

12.8.1 **2 technical** description or drawings **of the device**”;

- (2) In Annex III, In Part I, section A, the following points 12.8., ~~and~~ 12.8.1. **and 12.8.2** are added:

“12.8 eCall system

12.8.1 Presence: yes/no (1)

12.8.2 technical description or drawings of the device”;

- (3) Part 1 of Annex IV is amended as follows:

- (a) The following item 71. is added to the table:

Item	Subject	Regulatory act	Applicability									
			M ₁	M ₂	M ₃	N ₁	N ₂	N ₃	O ₁	O ₂	O ₃	O ₄
71.	eCall system	Regulation (EU) No.....	X			X						

(b) Appendix 1 is amended as follows:

(i) the following item 71. is added to table 1:

Item	Subject	Regulatory act	Specific issues	Applicability and specific requirements
71.	eCall system	Regulation (EU) No.....		N/A

(ii) the following item 71. is added to table 2:

Item	Subject	Regulatory act	Specific issues	Applicability and specific requirements
71.	eCall system	Regulation (EU) No.....		N/A

(4) In the Appendix to Model A in Annex VI, the following item 71. is added to the table:

Item	Subject	Regulatory act reference ⁽¹⁾	As amended by	Applicable to versions
71.	eCall system	Regulation (EU) No.....		

(5) Annex IX is amended as follows:

(a) In Part I, Model B is amended as follows:

(i) Side 2 “vehicle category M1” is amended as follows:

- point 52 is replaced by the following:

“52. eCall presence yes/no”,

- the following point 53 is added:

“53. Remarks ⁽¹¹⁾:”;

(ii) side 2 “vehicle category N1” is amended as follows:

- point 52 is replaced by the following:

“52. eCall presence yes/no”,

- the following point 53 is added:

“53. Remarks ⁽¹¹⁾:”;

(b) in Part II, model C2 is amended as follows:

(i) side 2 “vehicle category M1” is amended as follows:

- point 52 is replaced by the following:

“52. eCall presence yes/no”,

- the following point 53 is added:

“53. Remarks ⁽¹¹⁾:”;

(ii) side 2 “vehicle category N1” is amended as follows:

- point 52 is replaced by the following:

“52. eCall presence yes/no”,

- the following point 53 is added:

“53. Remarks (11):”;

(6) **Annex XI is amended as follows:**

(a) In Appendix 1 to Annex XI, the following item 71. is added to the table:

Item	Subject	Regulatory act reference	$M_1 \leq 2\,500\text{ (}^1\text{) kg}$	$M_1 > 2\,500\text{ (}^1\text{) kg}$	M_2	M_3
71.	eCall system	Regulation (EU) No.....	A	A	N/A	N/A

(b) In Appendix 2 to Annex XI, the following item 71. is added to the table:

Item	Subject	Regulatory act reference	M_1	M_2	M_3	N_1	N_2	N_3	O_1	O_2	O_3	O_4
71.	eCall system	Regulation (EU) No.....	A	N/A	N/A	A	N/A	N/A	N/A	N/A	N/A	N/A

(c) In Appendix 3 to Annex XI, the following item 71. is added to the table:

Item	Subject	Regulatory act reference	M_1
71.	eCall system	Regulation (EU) No.....	A

(d) In Appendix 4 to Annex XI, the following item 71. is added to the table:

Item	Subject	Regulatory act reference	M_2	M_3	N_1	N_2	N_3	O_1	O_2	O_3	O_4
71.	eCall system	Regulation (EU) No.....	N/A	N/A	A	N/A	N/A	N/A	N/A	N/A	N/A
