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Empfänger:	Ausschuss der Ständigen Vertreter (1. Teil) / Rat
Nr. Vordok.:	8738/1/18 REV 1
Nr. Komm.dok.:	14183/17 + ADD 1
Betr.:	Vorschlag für eine Richtlinie des Europäischen Parlaments und des Rates zur Änderung der Richtlinie 2009/33/EG über die Förderung sauberer und energieeffizienter Straßenfahrzeuge – Sachstandsbericht

I. EINLEITUNG

Am 9. November 2017 hat die Kommission den eingangs genannten Vorschlag vorgelegt, der Teil des Mobilitätspakets "Europa in Bewegung" ist und zu ihren Initiativen für eine emissionsarme Mobilität zählt.

Hauptziel dieser Initiative ist es, die Marktakzeptanz von saubereren, d. h. emissionsarmen und emissionsfreien Fahrzeugen im Rahmen der öffentlichen Auftragsvergabe zu fördern und so zur Verringerung der verkehrsbedingten Emissionen, zur Stärkung der Wettbewerbsfähigkeit und zum Wachstum im Verkehrssektor beizutragen. Bei der Bewertung der Richtlinie 2009/33/EG hat sich herausgestellt, dass die Richtlinie die Marktakzeptanz sauberer Fahrzeuge in der gesamten Union nicht ausreichend gefördert und die Verringerung der Treibhausgas- und Luftschadstoffemissionen kaum vorangebracht hat.

Das Hauptziel der vorgeschlagenen Richtlinie soll dadurch erreicht werden, dass

- der Geltungsbereich der bestehenden Richtlinie auf alle einschlägigen Vergabeverfahren ausgedehnt wird,
- eine Definition für den Begriff "sauberes Fahrzeug" eingeführt wird und
- für die öffentliche Auftragsvergabe Mindestziele in Bezug auf saubere Fahrzeuge für 2025 und 2030 festgesetzt werden.

II. ARBEITEN IN DEN ANDEREN ORGANEN

Das Europäische Parlament hat den Ausschuss für Umweltfragen, öffentliche Gesundheit und Lebensmittelsicherheit (ENVI) als federführenden Ausschuss für diesen Vorschlag und Herrn Andrzej GRZYB (PPE, PL) als Berichterstatter benannt. Der Bericht wird voraussichtlich im Herbst angenommen. Der Ausschuss für Industrie, Forschung und Energie (ITRE) und der Ausschuss für Verkehr und Tourismus (TRAN) werden jeweils eine Stellungnahme zu dem Vorschlag annehmen.

Der Europäische Wirtschafts- und Sozialausschuss hat auf seiner Plenartagung vom 19. April 2018 eine Stellungnahme verabschiedet. Der Europäische Ausschuss der Regionen wird voraussichtlich im Juli 2018 eine Stellungnahme verabschieden.

III. ARBEITEN IN DEN VORBEREITUNGSGREMIEN DES RATES

Die Gruppe "Intermodaler Verkehr und Vernetzung" hat die Arbeit an dem Vorschlag am 27. November 2017 mit einer allgemeinen Vorstellung und einem Gedankenaustausch begonnen. Am 9. März 2018 wurde die Folgenabschätzung detailliert geprüft. Die erste Prüfung der einzelnen Artikel des Vorschlags fand am 16. März und 25. April 2018 statt, und die ersten Kompromissvorschläge des Vorsitzes wurden der Gruppe am 17. und 24. Mai 2018 vorgelegt. Darin sollten in erster Linie einige Aspekte des Vorschlags präzisiert werden; die Änderungen fanden allgemein die Unterstützung der Delegationen.

Da jedoch in manchen Mitgliedstaaten die Abstimmung des Standpunkts komplex ist und mehrere Ministerien daran beteiligt sind, ist die Untersuchung des Dossiers auf nationaler Ebene noch nicht abgeschlossen. Daher lassen sich zum jetzigen Zeitpunkt keine endgültigen Schlüsse zu den Standpunkten der Mitgliedstaaten ziehen, und es ist davon auszugehen, dass alle Delegationen Prüfungsvorbehalte zu mehreren oder allen Artikeln des Vorschlags und zum jüngsten Kompromisstext des Vorsitzes, der in der Anlage zu diesem Bericht enthalten ist, einlegen werden.

In diesem Bericht werden die wichtigsten bei der Prüfung des Vorschlags bisher aufgeworfenen Fragen herausgestellt. Damit sollen der Ausschuss der Ständigen Vertreter und der Rat über den Sachstand der bisherigen Arbeiten informiert und die Aufmerksamkeit auf die Fragen gelenkt werden, zu denen weitere Beratungen erforderlich sind.

IV. FESTSTELLUNGEN BEI DER ERSTEN PRÜFUNG

Allgemeine Bemerkungen

Generell begrüßten die Delegationen die Hauptziele des Vorschlags, insbesondere die Förderung der Marktakzeptanz von sauberen Fahrzeugen im Rahmen der öffentlichen Auftragsvergabe. Auch die allgemeinen Grundsätze des Vorschlags zur Erreichung dieses Ziels, nämlich die Ausweitung des Anwendungsbereichs der bestehenden Richtlinie, die Einführung einer Definition von "sauberem Fahrzeug" und die Festlegung von Mindestzielen für die öffentliche Auftragsvergabe, wurden generell unterstützt.

Das bei der Prüfung der Folgenabschätzung aufgetretene Hauptproblem betraf den Inhalt der Definition von "sauberem Fahrzeug"; eine große Anzahl von Delegationen betonte, dass ein harmonisiertes EU-weites Konzept für den Einsatz alternativer Kraftstoffe befolgt werden sollte, das bestehenden Bestimmungen Rechnung trägt. In diesem Zusammenhang haben zahlreiche Delegationen verlangt, dass geklärt wird, ob der Vorschlag mit anderen geltenden Rechtsvorschriften über alternative Kraftstoffe, insbesondere mit dem Aktionsplan zur Infrastruktur für alternative Kraftstoffe¹ und der Richtlinie über den Aufbau der Infrastruktur für alternative Kraftstoffe (2014/94/EU)², im Einklang steht. Nach Ansicht einiger Delegationen könnten die in einigen Mitgliedstaaten bereits in die Wege geleiteten Pläne für die öffentliche Auftragsvergabe durch die vorgeschlagene, restriktivere Definition beeinträchtigt werden. Einige wenige Delegationen wiederum würden eine striktere Definition von "sauberem Fahrzeug" vorziehen und dabei den Schwerpunkt auf die Emissionsfreiheit legen.

¹ 14333/1/18 REV 1 + ADD 1 - ADD 3.

² Richtlinie 2014/94/EU des Europäischen Parlaments und des Rates vom 22. Oktober 2014 über den Aufbau der Infrastruktur für alternative Kraftstoffe (ABl. L 307 vom 28.10.2014, S. 1–20).

Zahlreiche Delegationen äußerten sich besorgt über den erwarteten Anstieg der Anfangsinvestitionen in saubere Fahrzeuge sowie über die von den öffentlichen Stellen zu tragenden Kosten für den Bau neuer Infrastrukturen. Einige Delegationen fragten sich auch, ob die EU-Hersteller bereit wären, eine hinreichende Zahl von emissionsarmen und emissionsfreien "sauberen Fahrzeugen" – insbesondere im Segment der schweren Nutzfahrzeuge und im globalen Wettbewerb – zu liefern.

Schließlich hatten die Delegationen Fragen zur praktischen Umsetzung der Richtlinie sowie zu den Aufgaben im Zusammenhang mit Überwachung und Berichterstattung, die zu Mehrkosten und verstärktem Verwaltungsaufwand führen könnten.

Bemerkungen zu einzelnen Fragen

- a) **Ausnahmen (Artikel 2):** Im Vorschlag werden die Anforderungen für Ausnahmen für den Kauf von Fahrzeugen mit Artikel 2 Absatz 3 der Richtlinie 2007/46/EG verknüpft. Nach Ansicht einiger Delegationen sollte die Ausnahme für Spezialfahrzeuge und Fahrzeuge für Militär-, Krankenhaus- und Polizeizwecke in diesem Artikel genauer definiert werden.

- b) **Anwendungsbereich (Artikel 3):** Mit der Überarbeitung wird der Anwendungsbereich der Richtlinie auf das Leasing, die Anmietung und den Mietkauf von Fahrzeugen ausgedehnt. Die Delegationen begrüßten generell diese Ausdehnung des Anwendungsbereichs. Einige wenige Delegationen vertraten jedoch die Ansicht, dass gemietete Fahrzeuge nicht vom Anwendungsbereich der Richtlinie erfasst werden sollten, da diese Art der Beschaffung im Allgemeinen nur für kurze Zeiträume erfolgt und in der Regel die Mindestschwellen nicht überschreitet.

Was die Arten von Verträgen, die erfassten Betreiber und die anwendbaren Schwellen im Sinne dieses Artikels angeht, so erörterte die Gruppe, wie diese Bestimmung klarer gefasst werden könnte, einschließlich des Umstands, dass diese Richtlinie nicht für Ausschreibungen gelten sollte, die vor Abschluss der Umsetzung der Richtlinie in nationales Recht eingeleitet wurden.

- c) **Definitionen (Artikel 4 und Tabellen 2 und 3 des Anhangs):** Der Vorschlag sieht eine Definition von sauberen Fahrzeugen auf der Grundlage von CO₂- und Luftschadstoffemissionsstandards für leichte Nutzfahrzeuge vor, während für schwere Nutzfahrzeuge eine Definition auf der Grundlage alternativer Kraftstoffe herangezogen wird.

Bei den Beratungen betonte eine Mehrheit der Delegationen, dass bei der Festlegung der Definition von "sauberem Fahrzeug" in den EU-Rechtsvorschriften bereits bestehende Definitionen und auch der Grundsatz der Technologieneutralität berücksichtigt werden sollten. In diesem Zusammenhang stellte eine große Mehrheit der Delegationen mit Besorgnis fest, dass die vorgeschlagene Definition eines "sauberen schweren Nutzfahrzeugs" im derzeitigen Artikel 4 Absatz 4 Buchstabe c und in der entsprechenden Tabelle 3 im Anhang eine Reihe von alternativen Kraftstoffen und Technologien ausschließt, die in der Richtlinie 2014/94/EU über den Aufbau der Infrastruktur für alternative Kraftstoffe aufgelistet sind. Die Delegationen forderten deshalb, diese Definition an die in der Richtlinie 2014/94/EU vorgesehene Definition anzupassen. Sie unterstrichen, dass Erdgas (insbesondere komprimiertes Erdgas und Flüssigerdgas) und Biomethan zwar weiterhin als Anforderungen für schwere Nutzfahrzeuge eingestuft werden sollten, dass aber fortschrittliche Biokraftstoffe ebenfalls einbezogen werden sollten, um der Technologieneutralität Rechnung zu tragen und mehr Flexibilität für die Mitgliedstaaten bei der Erreichung ihrer nationalen Beschaffungsziele zu schaffen. Einige wenige Delegationen sprachen sich gegen die Aufnahme von komprimiertem Erdgas und Flüssigerdgas in Tabelle 3 des Anhangs aus, da diese ihres Erachtens nicht dazu beitragen, die Null- bzw. Niedrigemissionsziele zu erreichen. Nach Ansicht einiger anderer Delegationen sollte mehr Flexibilität auch für Hybridfahrzeuge vorgesehen werden.

- d) **Befugnisübertragung (Artikel 4a und 8a):** Der Vorschlag ermöglicht den Erlass von Rechtsakten zur Anpassung der Schwellenwerte für die Emissionen von schweren Nutzfahrzeugen (Tabelle 3 des Anhangs) im Anschluss an die künftige Annahme von CO₂-Emissionsnormen für solche Fahrzeuge. Die Delegationen waren nahezu einstimmig der Auffassung, dass die Festlegung dieser Anforderungen auch weiterhin ein Vorrecht der Mitgesetzgeber bleiben sollte. Sie konnten daher die Übertragung von Befugnissen an die Kommission, im Sinne der Artikel 4a und 8a nicht befürworten.

- e) **Mindestziele für die öffentliche Auftragsvergabe (Artikel 5):** Der Vorschlag enthält Mindestziele für jede Fahrzeugklasse und für jeden Mitgliedstaat (Tabellen 4 und 5 des Anhangs). Die Mehrheit der Delegationen stellte den Grundsatz der Festlegung von Mindestzielen für die öffentliche Auftragsvergabe nicht infrage. Allerdings hielten mehrere Delegationen die Höhe der vorgeschlagenen Mindestziele für viel zu ehrgeizig, insbesondere im Segment der schweren Nutzfahrzeuge und spezifisch bei den Bussen. Einige Delegationen befürchteten, dass der anfängliche Investitionsaufwand, der zur Erfüllung der Zielvorgaben für die öffentliche Auftragsvergabe erforderlich wäre, die Qualität der öffentlichen Verkehrsdienste beeinträchtigen könnte.

Zudem wurde von den Mitgliedstaaten, die entsprechend ihres föderalen Aufbaus Beschaffungs- und Haushaltsverfahren weitgehend dezentral durchführen, darauf hingewiesen, dass sie derzeit auf Bundesebene über keinen Aufsichtsmechanismus für die öffentliche Auftragsvergabe für Fahrzeuge verfügen. Daher müssten sie, um die vorgeschlagenen Ziele erreichen zu können, zuerst einen nationalen Aufsichtsmechanismus einführen, um ihrer Berichterstattungspflicht gegenüber der Kommission nachzukommen, was für sie mit einem beträchtlichen Aufwand verbunden wäre.

- f) **Berichterstattung und Überprüfung (Artikel 10):** Mit dem Vorschlag werden Berichterstattungs- und Überwachungspflichten für die Mitgliedstaaten eingeführt. Er sieht für 2023 einen Zwischenbericht und für 2026 einen umfassenden Bericht über die Umsetzung der Ziele für das Jahr 2025 und danach alle drei Jahre die Vorlage eines weiteren Berichts vor.

Bei der Prüfung des Vorschlags äußerte eine große Anzahl von Delegationen Bedenken über die Vorlage eines Zwischenberichts über die Umsetzung der Richtlinie. Sie machten geltend, dass der Zwischenbericht verfrüht sei und einen beträchtlichen Verwaltungsaufwand bedeute, der in keinem Verhältnis zu dem Gewinn von Erkenntnissen aus dem Zwischenbericht stehe. Um diesen Bedenken Rechnung zu tragen, schlug der Vorsitz vor, dass die Mitgliedstaaten der Kommission anstelle eines umfassenden Zwischenberichts Informationen über die Fortschritte bei der Umsetzung der Richtlinie auf eine weniger bürokratische und aufwändige Weise zur Verfügung stellen.

In Bezug auf die regelmäßige Berichterstattung hat die Gruppe erörtert, wie Aspekte wie Zeitplan, Format und Inhalt der Berichterstattung mit dem Ziel, das Verfahren zu vereinfachen und den Verwaltungsaufwand für die Mitgliedstaaten zu verringern, geklärt werden können.

Allerdings haben viele Delegationen zu diesem Zeitpunkt Fragen zu diesen Bestimmungen.

V. **FAZIT**

Die Prüfung des Vorschlags hat gezeigt, dass die Definition des Begriffs "sauberes Fahrzeug" und die Höhe und die Umsetzung der Ziele für die Vergabe öffentlicher Aufträge die zentralen Fragen sind. Diese Fragen werden neben einer Reihe anderer Fragen, wie oben dargelegt, unter dem aktuellen und den nachfolgenden Vorsitzen angegangen werden müssen, um Fortschritte bei diesem Dossier zu erzielen.

Der Ausschuss der Ständigen Vertreter und der Rat werden ersucht, die bei der Prüfung der vorgeschlagenen Richtlinie erzielten Fortschritte zur Kenntnis zu nehmen.

**Proposal for a Directive of the European parliament and of the Council
amending Directive 2009/33/EC
on the promotion of clean road transport vehicles in support of low-emission mobility**

(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 192 thereof,
Having regard to the proposal from 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 Committee³,
Having regard to the opinion of the Committee of the Regions⁴,
Acting in accordance with the ordinary legislative procedure,
Whereas:

- (1) The Union is committed to a sustainable, competitive, secure and decarbonised energy system⁵. The Energy Union and the Energy and Climate Policy Framework for 2020 to 2030⁶ establish ambitious commitments for the Union to further reduce greenhouse gas emissions by at least 40 % by 2030 as compared with 1990, to increase the proportion of renewable energy consumed by at least 27 %, to make energy savings of at least 27 %, and to improve the Union's energy security, competitiveness and sustainability.

³ OJ C , , p. .

⁴ OJ C , , p. .

⁵ European Council Conclusions of 24 October 2014.

⁶ Commission Communication on a policy framework for climate and energy from 2020 to 2030 (COM(2014)0013).

- (2) In its European Strategy for Low-Emission Mobility⁷ the Commission announced that in order to meet the Union's commitments at the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) held in Paris in 2015, the decarbonisation of the transport sector must be accelerated and that therefore greenhouse gas emissions and air pollutant emissions from transport should be firmly on the path towards zero-emission by mid-century. Moreover, emissions of air pollutants from transport that are harmful to health need to be significantly reduced without delay. This can be achieved by an array of policy initiatives, including the use of public procurement of clean vehicles.
- (3) In its Communication "Europe on the Move: an agenda for a socially fair transition towards clean, competitive and connected mobility for all"⁸ the Commission underlines that increased production and uptake of clean vehicles, alternative fuels infrastructures and new mobility services taking advantage of digitalisation and automation in the Union offer multiple benefits to Europe's citizens, Member States and industries. These include safer and seamless travel and reduction of exposure to harmful pollutant emissions. Further, the 2017 State of the Union address stated that the objective is for the EU to become a world leader in decarbonisation.
- (4) As was announced in the Commission's Communication "Europe on the Move: an agenda for a socially fair transition towards clean, competitive and connected mobility for all"⁹ this proposal forms part of a second package of proposals, which will contribute to the Union's drive towards low-emission mobility. This package, which is presented in the Commission's Communication "Delivering on low-emission mobility - A European Union that protects the planet, empowers its consumers, and defends its industry and workers" includes a combination of supply- and demand-oriented measures to put the EU on a path towards low-emission mobility and at the same time strengthen the competitiveness of the EU's mobility eco-system.
- (5) Innovation of new technologies helps to lower vehicle emissions, supporting the decarbonisation of the transport sector. An increased uptake of low- and zero-emission road vehicles is likely to reduce emissions of CO₂ and certain pollutant emissions (particulate matter, nitrogen oxides and non-methane hydrocarbons) and to promote competitiveness and growth of the European industry in the increasing global markets for low- and zero-emission vehicles.
- (6) Public authorities, through their procurement policy, can establish and support markets for innovative goods and services. Directives 2014/24/EU¹⁰ and 2014/25/EU¹¹ set out minimum harmonised public procurement rules harmonising the way public authorities and certain public utility operators purchase goods, works and services. In particular, they set overall thresholds for the volume of contracts to be subject to Union legislation, which also apply to the Clean Vehicles Directive.

⁷ COM(2016) 501 final.

⁸ COM(2017) 283 final.

⁹ COM (2017) 283 final.

¹⁰ OJ L 94, 28.3.2014, p. 65 - 242.

¹¹ OJ L 94, 28.3.2014, p. 243 – 374.

- (7) Directive 2009/33/EC complements the horizontal public procurement legislation of the Union and adds sustainability criteria, and thereby aims to stimulate the market for clean and energy efficient road transport vehicles. The Commission carried out an ex-post evaluation of the Clean Vehicles Directive in 2015 concluded that the Directive did not trigger market uptake of clean vehicles across the Union, particular due to shortcomings in its provisions on scope and vehicle purchase. The impact on reducing greenhouse gas and air pollutant emissions and the impact on promoting industry competitiveness was found to have been very limited.
- (8) The Impact Assessment carried out underlines the benefits of changing the overall governance approach to clean vehicle procurement at Union level. Setting minimum procurement targets can effectively reach the objective of impacting market uptake of clean vehicles in comparison to relying on the internalisation of external cost into overall procurement decisions, while noting the relevance to consider environmental aspects in all procurement decisions. The medium and long-term benefits for European citizens and enterprises fully justify this approach insofar as it does not prescribe a specific technology to use for contracting authorities, entities and operators.
- (9) Extending the scope of the Directive by including practices such as lease, rental and hire-purchase of vehicles, as well as contracts for public road transport services, special purpose road transport passenger services, non-scheduled passenger transport and hire of buses and coaches with drivers as well as specific postal and courier services and waste refusal services ensures that all relevant procurement practices are covered.
- (10) There is widespread support from key stakeholders for a definition of clean vehicles taking account of reduction requirements for greenhouse gases and air pollutant emissions from light- and heavy-duty vehicles. To ensure that there are adequate incentives to supporting market-uptake of low- and zero-emission vehicles in the Union, provisions for their public procurement under this amendment should be aligned with provisions of Union legislation on CO₂ emission performance of cars and vans for the post-2020 period¹². Action carried out under the amended Directive will contribute to compliance with the requirements of these standards. A more ambitious approach for public procurement can provide an important additional market stimulus.
- (11) Light-duty and heavy-duty vehicles are used for different purposes and have different levels of market maturity, and it would be beneficial that public procurement provisions acknowledge these differences. The Impact Assessment illustrated the added value of adopting an approach based on alternative fuels until technology-neutral requirements for CO₂ emissions from heavy-duty vehicles have been set at Union level, which the Commission intends to propose in the future. The Impact Assessment further recognised that markets for low- and zero-emission urban buses are characterised by increased market maturity, whereas markets for low- and zero-emission trucks are at an earlier stage of market development.

¹² COM(2017) 676 final.

- (12) Setting minimum targets for clean vehicle procurement by 2025 and by 2030 at Member State level should contribute to policy certainty for markets where investments in low- and zero-emission mobility are warranted. The minimum targets support market creation throughout the Union. They provide time for the adjustment of public procurement processes and give a clear market signal. The Impact Assessment notes that Member States increasingly set targets, depending on their economic capacity and how serious the problem is. Different targets should be set for different Member States in accordance with their economic capacity (Gross Domestic Product per capita) and exposure to pollution (urban population density). Minimum procurement targets should be complemented by the obligation of the contracting authorities, entities and operators to consider relevant energy and environmental aspects in all their procurement procedures. The Territorial Impact Assessment of this amended Directive illustrated that the impact will be evenly distributed among regions in the Union.
- (12a) Member States should have the flexibility to distribute efforts to meet the minimum targets within their territory, in accordance with their constitutional framework and in line with their transport policy objectives. In the allocation of efforts within a Member State, different factors could be taken into account, such as differences in economic capacity, air quality, population density, characteristics of the transport systems, policies to decarbonise transport and reduce air pollution, or any other relevant criteria.
- (13) The maximum impact can be achieved if public procurement of clean vehicles is targeted in areas that have a relatively high degree of air pollution. Public authorities in Member States are encouraged to particularly focus on those areas when concluding the implementation of their domestic minimum targets and to reflect related action in their reporting under this amended Directive.
- (13a) In order to further promote transport decarbonisation, improve air quality and maintain a level playing field between different operators Member States can, in compliance with Union law, decide to also impose similar requirements to private operators and services outside the scope of this Directive.
- (14) Life-cycle costing is an important tool for contracting authorities and entities to cover energy and environmental costs during the life-cycle of a vehicle, including the cost of greenhouse gas emission and other pollutant emissions on the basis of a relevant methodology to determine their monetary value. Given the scarce use of the methodology for the calculation of operational lifetime costs under Directive 2009/33/EU and the information provided by contracting authorities and entities on the use of own methodologies tailored to their specific circumstances and needs, there should be no methodology mandatory to use, but contracting authorities, contracting entities or operators should be able to choose any life-costing methodology in order to support their procurement processes.

- (15) Reporting on public procurement under this amended Directive should provide a clear market overview to enable effective monitoring of the implementation. To minimise administrative burden on single public bodies and establish an effective market overview, simple reporting should be facilitated. The timeframe should be aligned with existing reporting obligations under Directive 2014/24/EU and Directive 2014/25/EU. The Commission will provide solutions for the registration and monitoring under the Tender Electronic Daily Database, and will ensure full reporting for low- and zero-emission and other alternative-fuel vehicles within the context of the Common Procurement Vocabulary of the Union. Specific codes in the Common Procurement Vocabulary will help the registration and monitoring under the Tender Electronic Daily Database.
- (16) Further support to market uptake of clean vehicles can be achieved by providing targeted public support measures at national and Union level. This includes better exchange of knowledge and alignment of procurement to enable actions at a scale great enough for cost reductions and market impact. The possibility of public support in favour of promoting development of infrastructures necessary for the distribution of alternative fuels is recognised in the Guidelines on State aid for environmental protection and energy 2014-2020¹³. However, the rules of the Treaty, and in particular Articles 107 and 108 thereof, will continue to apply to such public support.
- (17) In order to achieve the objectives of this Directive, 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 order to update provisions in respect of CO₂ emission standards of heavy duty vehicles for a period of five years starting from *[Please insert the date of entry into force]*. This period should be tacitly extended for periods of the same duration, unless the European Parliament or the Council oppose such an extension. It is of particular importance that the Commission carries 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.
- (18) Since the objectives of this Directive, namely to provide a demand-side stimulus for clean vehicles in support of a low-emission mobility transition, cannot be sufficiently achieved by the Member States alone, but can rather, by reason of a common and long-term policy framework and for reasons of scale be better achieved at Union level the Union may adopt measures in accordance with the principle of subsidiarity as 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 Directive does not go beyond what is necessary to achieve those objectives.
- (19) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents¹⁴, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a Directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

¹³ OJ C 200, 28.6.2014, p. 1.

¹⁴ OJ C 369, 17.12.2011, p. 14.

(20) Directive 2009/33/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter and objectives

This Directive requires contracting authorities, contracting entities as well as certain operators to take into account lifetime energy and environmental impacts, including energy consumption and emissions of CO₂ and of certain pollutants, when procuring road transport vehicles with the objectives of promoting and stimulating the market for clean and energy-efficient vehicles and improving the contribution of the transport sector to the environment, climate and energy policies of the Community.

Article 2

Exemptions

Member States may exempt from the requirements laid down in this Directive contracts for the procurement of vehicles referred to in Article 2(3) of Directive 2007/46/EC¹⁵.

Article 3

Scope

This Directive shall apply to procurement through:

1. contracts for the purchase, lease, rent or hire-purchase of road transport vehicles ~~signed~~ **whose tender notice is published** after [insert date, 24 months following the date of entry into force of this directive] by:
 - (a) contracting authorities or contracting entities in so far as they are under an obligation to apply the procurement procedures set out in Directives 2014/24/EU and 2014/25/EU;

¹⁵ Reference to be updated to reflect changes following revision of Directive 2007/46/EC.

- (b) operators for the discharge of public service obligations under a public service contract within the meaning of Regulation (EC) No 1370/2007 of the European Parliament and of the Council¹⁶ in excess of a threshold which shall be defined by Member States not exceeding the applicable threshold value set out in Article 4 of Directive 2014/24/EU and Article 15 of Directive 2014/25/EU;
2. public service contracts signed **whose tender notice is published** after [insert date, 24 months following the date of entry into force of this directive] covering services as set out in Table 1 of the Annex in excess of a threshold which shall be defined by Member States not exceeding the applicable threshold value as set out in Article 4 of Directive 2014/24/EU and Article 15 of Directive 2014/25/EU.

Article 4
Definitions

For the purpose of this Directive:

1. 'contracting authorities' means contracting authorities as defined in Article 2(1)(1) of Directive 2014/24/EU and in Article 3 of Directive 2014/25/EU;
2. 'contracting entities' means contracting entities as referred to in Article 4 of Directive 2014/25/EU;
3. 'road transport vehicle' means a vehicle of category M or N, as defined in Annex II, Part A, point 1 of Directive 2007/46/EC¹⁷, **excluding special purpose vehicles as defined in points 5.2. to 5.5. and 5.7¹⁸.**

[4. 'clean vehicle' means

(a) a vehicle of category M1 or M2 with a maximum tail-pipe emission expressed in CO₂/km and real driving pollutant emissions below a percentage of the applicable emission limits as referred to in Table 2 in the Annex , or;

¹⁶ Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport by road and rail (OJ L 315, 3.12.2007, p. 1).

¹⁷ OJ L 263, 9.10.2007, p.1.

¹⁸ Reference to be updated to reflect changes following revision of Directive 2007/46/EC.

(b) a vehicle of category N1 with a maximum tail-pipe emission expressed in CO₂/km and real driving pollutant emissions below a percentage of the applicable emission limits as referred to in Table 2 in the Annex, or;

(c) a vehicle of category M3, N2 or N3 as defined in Table 3 in the Annex.]

~~[Article 4a~~

~~Delegation of powers~~

~~The Commission shall be empowered to adopt delegated acts in accordance with Article 8a in order to amend Table 3 in the Annex by adding CO₂ tail pipe emission and air pollutants thresholds for heavy duty vehicles once the related heavy duty CO₂ emission performance standards have entered into force at Union level.]~~

Article 5

Minimum procurement targets

1. Member States shall ensure that public procurement of vehicles and services through contracts referred to in Article 3 of this Directive complies with the minimum procurement targets for light-duty vehicles referred to in table 4 of the Annex and for heavy-duty vehicles referred to in Table 5 in the Annex. Those targets are expressed as minimum percentages of clean vehicles in the total number of road transport vehicles covered by the contracts referred to in Article 3, signed **during the respective periods referred to in the Annex** after ~~[insert date 24 months following the date of entry into force of this Directive].~~

- 1a. Vehicles that meet the definition of clean vehicle under Article 4(4) as a result of retrofitting may be counted as clean vehicles for the purpose of compliance with the minimum procurement targets.
- 1b. In the case of contracts referred to in Article 3(1), the number of road transport vehicles purchased, leased, rented or hire-purchased under each contract should be taken into account for the purpose of assessing compliance with the minimum targets.**
- 1c. In the case of contracts referred to in Article 3(2), the number of road transport vehicles used for the provision of services covered by each contract should be taken into account for the purpose of assessing compliance with the minimum targets.**
2. Member States may apply or authorise their contracting authorities to apply higher national targets or more stringent requirements than those referred to in the Annex of this Directive.

Article 6

[deleted]

Article 7

[deleted]

Article 8

Best practice exchange

The Commission shall facilitate and structure the exchange of knowledge and best practices between Member States on practices for promoting the purchase of clean and energy-efficient road transport vehicles by contracting authorities, contracting entities and operators referred to in Article 3.

[Article 8a

Exercise of the delegation

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 4a shall be conferred on the Commission for a period of five years from [Please insert the date of entry into force]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.~~
3. ~~The delegation of power referred to in Article 4a 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 on 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. ~~Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law Making of 13 April 2016.~~
5. ~~As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.~~
6. ~~A delegated act adopted pursuant to Article 4a shall enter into force only if no objection has been expressed either by the European Parliament or by 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.]~~

Article 9
Committee procedure

1. The Commission shall be assisted by a Committee.

That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.
3. Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.

Article 10
Reporting and review

1. The Commission shall submit a report on the application of this Directive and on the actions taken by individual Member States for the effective implementation of this Directive to the European Parliament and to the Council every three years starting on 1 January 2027, following the reporting from Member States.
2. [Deleted]
3. [Deleted]

4. Member States shall submit to the Commission a report on the implementation of this Directive by 1 January 2026, and every three years thereafter. That report shall contain information on the steps undertaken to implement this Directive, including on the number and the categories of vehicles procured by authorities and entities on Member States' intentions regarding the above reporting activities, as well as any other **relevant** ~~valuable~~ information. Information should follow the categories contained in Regulation No 2195/2002 on the Common Procurement Vocabulary (CPV) ¹⁹ as noted in the Annex.

4a. Member States shall inform the Commission by [insert date 36 months following the entry into force of the Directive] on the steps undertaken to implement this Directive, on the dialogue carried out between the different levels of governance, on Member States' intentions regarding the above activities, as well as on any other relevant information.

5. The Commission shall be empowered to adopt, by means of implementing acts, guidance on the contents of Member States' reports referred to in paragraph 4. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 9(2).

Article 11

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 4 December 2010. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive, or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States

¹⁹ OJ L 340, 16.12.2002, p. 1,

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 12

Entry into force

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

Article 13

Addressees

This Directive is addressed to the Member States.

For the European Parliament

The President

For the Council

The President

Final provisions:

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by XXXX [*Please insert the date 24 months following the date of entry into force*] at the latest. They shall immediately communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX

Information for the implementation of minimum procurement targets for clean road transport vehicles in support of low-emission mobility in Member States

Table 1: Common Procurement Vocabulary codes referred to in Article 3

<i>CPV Code</i>	<i>Description</i>
60112000-6	Public road transport services
60130000-8	Special-purpose road passenger-transport services
60140000-1	Non-scheduled passenger transport
60172000-3	Hire of buses and coaches with driver
90511000-2	Refuse collection services
60160000-7	Mail transport by road
60161000-4	Parcel transport services

Table 2: Emission-thresholds for light-duty vehicles

Vehicle categories	Until 31 December 2025		From 1 January 2026 2030	
	<i>CO₂ g/km</i>	<i>RDE air pollutant emissions* as percentage of emission limits**</i>	<i>CO₂ g/km</i>	<i>RDE air pollutant emissions* as percentage of emission limits</i>
M1 vehicles	25	80%	0	n.a.
M2 vehicles	25	80%	0	n.a.
N1 vehicles	40	80%	0	n.a.

* Real driving emissions of ultrafine particles in #/km (PN) nitrogen oxides in mg/km (NO_x) measured according to the applicable version of Annex IIIA, Regulation 2017/1151.

** The applicable emission limit found in Annex I of Regulation (EC) 715/2007, or its successors.

Table 3: Requirements for heavy-duty vehicles

Vehicle categories	Alternative fuels
M3, N2, N3 vehicles	Electricity*, hydrogen, natural gas including biomethane, in gaseous form (compressed natural gas (CNG)) and liquefied form (liquefied natural gas (LNG))

*For use in a vehicle as defined in Art. 2 (2) of Directive 2014/94/EU, provided that electricity is used for a relevant part of the operational use of the vehicle.

Table 4: Minimum target for the share of light-duty vehicles in accordance with table 2 in the total number of light-duty vehicles covered by contracts referred to in Article 3 at Member State level*

Member State	<u>From (insert date 24 months following the date of entry into force of this Directive) to 31 December 2025</u>	<u>From 1 January 2026 to 31 December 2030</u>
Luxembourg	35%	35%
Sweden	35%	35%
Denmark	34%	34%
Finland	35%	35%
Germany	35%	35%
France	34%	34%
United Kingdom	35%	35%
Netherlands	35%	35%
Austria	35%	35%
Belgium	35%	35%
Italy	35%	35%
Ireland	35%	35%
Spain	33%	33%
Cyprus	29%	29%
Malta	35%	35%
Portugal	27%	27%
Greece	23%	23%
Slovenia	20%	20%
Czech Republic	27%	27%
Estonia	21%	21%
Slovakia	20%	20%
Lithuania	19%	19%
Poland	20%	20%
Croatia	17%	17%
Hungary	21%	21%
Latvia	20%	20%
Romania	17%	17%
Bulgaria	16%	16%

*Vehicles with zero-emissions at tailpipe shall be counted as 1 vehicle contributing to the mandate. All other vehicles that meet the requirements of Table 2 in this annex shall be counted as 0.5 vehicle contributing.

Table 5: Minimum target for the share of heavy-duty vehicles in accordance with table 3 in the total number of heavy-duty vehicles covered by contracts referred to in Article 3 at Member State level*

Member State	Trucks		Buses	
	<u>From (insert date 24 months following the date of entry into force of this Directive) to 31 December 2025</u>	<u>From 1 January 2026 to 31 December 2030</u>	<u>From (insert date 24 months following the date of entry into force of this Directive) to 31 December 2025</u>	<u>From 1 January 2026 to 31 December 2030</u>
Luxembourg	10%	15%	50%	75%
Sweden	10%	15%	50%	75%
Denmark	10%	15%	50%	75%
Finland	9%	15%	46%	69%
Germany	10%	15%	50%	75%
France	10%	15%	48%	71%
United Kingdom	10%	15%	50%	75%
Netherlands	10%	15%	50%	75%
Austria	10%	15%	50%	75%
Belgium	10%	15%	50%	75%
Italy	10%	15%	50%	75%
Ireland	10%	15%	50%	75%
Spain	10%	14%	50%	75%
Cyprus	10%	13%	50%	75%
Malta	10%	15%	50%	75%
Portugal	8%	12%	40%	61%
Greece	8%	10%	38%	57%
Slovenia	7%	9%	33%	50%
Czech Republic	9%	11%	46%	70%
Estonia	7%	9%	36%	53%
Slovakia	8%	9%	39%	58%
Lithuania	8%	9%	47%	70%
Poland	7%	9%	37%	56%
Croatia	6%	7%	32%	48%
Hungary	8%	9%	42%	63%
Latvia	8%	9%	40%	60%
Romania	6%	7%	29%	43%
Bulgaria	7%	8%	39%	58%

* Vehicles with zero-emissions at tailpipe or vehicles using natural gas provided they are fully operated on bio-methane, which should be demonstrated by a contract to procure bio-methane or other means of accessing bio-methane, shall be counted as 1 vehicle contributing to the mandate. All other vehicles that meet the requirements of Table 3 in this annex shall be counted as 0.5 vehicle contributing. This counting is abandoned in case of those Member States where the minimum procurement mandate ~~exceeds~~ **is 50% or more** of the overall volume of public procurement, ~~with a~~

cut off at the 50% mark; in this case all vehicles that meet the requirements in Table 3 of this Annex shall be counted as one vehicle contributing.
