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THE EUROPEAN PARLIAMENT

THE COUNCIL

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amending Directive 2009/33/EC on the promotion of clean and
energy-efficient road transport vehicles

DIRECTIVE (EU) 2019/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

**amending Directive 2009/33/EC on the promotion
of clean and energy-efficient road transport vehicles**

(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(1) 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 Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure³,

¹ OJ C 262, 25.7.2018, p. 58.

² OJ C 387, 25.10.2018, p. 70.

³ Position of the European Parliament of 18 April 2019 (not yet published in the Official Journal) and decision of the Council of

Whereas:

- (1) In accordance with the conclusions of the European Council of 23-24 October 2014, the Union is committed to a sustainable, competitive, secure and decarbonised energy system. The Commission's Communication of 22 January 2014 entitled 'A policy framework for climate and energy for the period from 2020 to 2030' establishes ambitious commitments for the Union to further reduce greenhouse gas emissions by at least 40 % by 2030 as compared to 1990 levels, to increase the proportion of renewable energy consumed to at least 27 %, to make energy savings of at least 27 %, and to improve the Union's energy security, competitiveness and sustainability. Since then, Directive (EU) 2018/2001 of the European Parliament and of the Council¹ set out a share of energy from renewable sources of at least 32 % of the Union's gross final consumption of energy by 2030, and Directive (EU) 2018/2002 of the European Parliament and of the Council² set out a new energy efficiency target for the Union by 2030 of at least 32,5 %.

¹ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

² Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018 amending Directive 2012/27/EU on energy efficiency (OJ L 328, 21.12.2018, p. 210).

- (2) In its Communication of 20 July 2016 entitled ‘A European Strategy for Low-Emission Mobility’ the Commission announced that in order to meet the Union’s commitments pledged at the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change 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 will need to be firmly on the path towards zero by mid-century. Moreover, emissions of air pollutants from transport that are harmful to health and the environment need to be significantly reduced without delay. That can be achieved by an array of policy initiatives, including measures that support a shift towards public transport and the use of public procurement to promote clean vehicles.
- (3) In its Communication of 31 May 2017 entitled ‘Europe on the Move: an agenda for a socially fair transition towards clean, competitive and connected mobility for all’ the Commission underlines that increased production and uptake of clean vehicles, alternative fuels infrastructure and new mobility services which take advantage of digitalisation and automation in the Union offer multiple benefits to Union citizens, Member States and industries. Those benefits include safer and seamless mobility solutions and the reduction of exposure to harmful pollutant emissions. Furthermore, as stated in the State of the Union address of 13 September 2017, one of the main objectives for the Union is to become a world leader in decarbonisation.

- (4) As was announced in the Commission's Communication 'Europe on the Move', this Directive forms part of a second package of proposals, which will contribute to the Union's drive towards low-emission mobility. That package, which was presented in the Commission's Communication of 8 November 2017 entitled '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 Union on a path towards low-emission mobility and at the same time strengthen the competitiveness of the Union's mobility eco-system. The promotion of clean vehicles should take place in parallel with the further development of public transport, as a way to reduce road congestion and consequently to reduce emissions and improve air quality.
- (5) Innovation in new technologies helps to lower vehicle CO₂ emissions and to reduce air and noise pollution, while supporting the decarbonisation of the transport sector. An increased uptake of low- and zero-emission road vehicles will reduce CO₂ emissions and certain pollutant emissions (particulate matter, nitrogen oxides and non-methane hydrocarbons) and thus improve the air quality in cities and other polluted areas, while contributing to the competitiveness and growth of Union industry in the increasing global markets for low- and zero-emission vehicles. The Commission should pursue policy measures to foster widespread industrial uptake of and the growth of manufacturing capacity for such new technologies in all Member States in order to contribute to a level-playing field and a balanced development across Member States.

- (6) Market forecasts estimate that the purchase prices of clean vehicles will continue to fall. Lower operational and maintenance costs already contribute towards competitive total cost of ownership. The expected reduction of purchase prices will further reduce barriers to market availability and uptake of clean vehicles in the next decade.
- (7) While the Union is one of the leading regions for research and high value eco-innovation, the Asia-Pacific region hosts the largest producers of battery electric buses and batteries. Similarly, global market developments in battery electric vehicles are driven by markets in China and the United States. An ambitious Union policy on the procurement of clean vehicles will help to stimulate innovation and further promote competitiveness and growth of the Union industry in the increasingly global markets for clean vehicles and associated technology infrastructure. As noted in its Communication of 3 October 2017 entitled ‘Making public procurement work in and for Europe’, the Commission will continue to lead efforts to ensure a level playing field and promote better access to third countries’ public procurement markets, including for the purchase, leasing, rental or hire-purchase of road transport vehicles.

(8) Taking into account that public expenditure on goods, works and services represented approximately 16 % of GDP in 2018, public authorities, through their public procurement policy, can foster and support markets for innovative goods and services. In order to achieve that goal, Directive 2009/33/EC of the European Parliament and of the Council¹ should set out clear and transparent requirements, including clear, long-term procurement targets and a simple method for their calculation. Directives 2014/24/EU² and 2014/25/EU³ of the European Parliament and of the Council set out minimum public procurement rules which coordinate the way contracting authorities and contracting entities procure works, supplies and services. In particular, those Directives set out overall monetary thresholds for determining which public contracts are to be subject to Union public procurement legislation. Those thresholds are also applicable to Directive 2009/33/EC.

¹ Directive 2009/33/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of clean and energy-efficient road transport vehicles (OJ L 120, 15.5.2009, p. 5).

² Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94 28.3.2014, p. 65).

³ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94 28.3.2014, p. 243).

- (9) The availability of sufficient recharging and refuelling infrastructure is necessary for the deployment of alternative fuel vehicles. On 8 November 2017, the Commission adopted an action plan to support the accelerated roll-out of alternative fuels infrastructure in the Union, including strengthened support to the roll-out of publicly available infrastructure by means of Union funds, helping to create more favourable conditions for the transition towards clean vehicles, including in public transport. The Commission will review the implementation of Directive 2014/94/EU of the European Parliament and of the Council¹ by 31 December 2020, and will submit a legislative proposal to amend that Directive, if it considers it necessary on the basis of that review.
- (10) Directive 2009/33/EC complements the horizontal public procurement legislation of the Union and adds sustainability criteria, thereby aiming to stimulate the market for clean and energy efficient road transport vehicles. The Commission carried out an ex-post evaluation of Directive 2009/33/EC in 2015 and concluded that that Directive did not trigger a market uptake of clean vehicles across the Union, in particular due to shortcomings as regards its scope and the provisions on vehicle purchase. That evaluation concluded that the impact of that Directive has been very limited in reducing greenhouse gas and air pollutant emissions and in promoting industry competitiveness.

¹ Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure (OJ L 307, 28.10.2014, p. 1).

- (11) The impact assessment carried out by the Commission on the revision of Directive 2009/33/EC underlines the benefits of changing the overall governance approach to clean vehicle procurement at Union level. Setting minimum procurement targets can effectively help to reach the objective of promoting and stimulating the market uptake of clean vehicles in comparison to relying on the internalisation of external cost into overall procurement decisions, while noting the relevance of considering environmental aspects in all procurement decisions. The medium and long-term benefits for Union citizens and enterprises fully justify that approach insofar as it leaves sufficient flexibility to contracting authorities and contracting entities in the choice of the technologies to be used.
- (12) Extending the scope of Directive 2009/33/EC by including practices such as lease, rental and hire-purchase of vehicles, as well as contracts for certain services, ensures that all relevant procurement practices are covered. The services covered by the scope of this Directive, such as public road transport services, special purpose road transport passenger services, non-scheduled passenger transport, as well as specific mail and parcel services and refuse collection services, should be those where the vehicles that are used for the provision of these services fall within the vehicle categories covered by this Directive, and where they represent a major element in the contract. Those services should be identified using their respective Common Procurement Vocabulary codes listed in the Annex. Existing contracts should not be retrospectively affected by this Directive.

(13) There is widespread support from key stakeholders for a definition of clean vehicles which takes into account the requirements for the reduction of greenhouse gases and air pollutant emissions from light-duty vehicles. To ensure that there are adequate incentives to promote market uptake of low- and zero-emission vehicles in the Union, provisions for their public procurement under this Directive should be aligned with the definition of zero- and low-emission vehicles provided for in Regulation (EU) 2019/... of the European Parliament and of the Council¹⁺. Action carried out under this Directive will contribute to compliance with the requirements of the standards laid down in Regulation (EU) 2019/...⁺⁺. In order to improve air quality, clean vehicles should perform better compared to the minimum requirements for nitrogen oxides (NOx) and for ultrafine particles - Particle Number (PN) set by the real-driving emission (RDE) limit values in force. In addition to zero-emission vehicles, today there are few light-duty vehicles with air pollutant emissions of 80 % or less of the current emission limits. The number of such vehicles, however, is expected to increase in the coming years, especially plug-in hybrids. A more ambitious approach for public procurement can provide a significant additional market stimulus.

¹ Regulation (EU) 2019/... of the European Parliament and of the Council of ... setting CO₂ emission performance standards for new passenger cars and for new light commercial vehicles and repealing Regulations (EC) No 443/2009 and (EU) No 510/2011 (OJ L ...)

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 6/19 (2017/0293(COD)) and insert the number, date, title and OJ reference of that Regulation in the footnote.

⁺⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 6/19 (2017/0293(COD)).

- (14) Clean heavy-duty vehicles should be defined through the use of alternative fuels in line with Directive 2014/94/EU. Where liquid biofuels, synthetic or paraffinic fuels are to be used by procured vehicles, contracting authorities and contracting entities have to ensure, through mandatory contract clauses or through similarly effective means within the public procurement procedure, that only such fuels are to be used in those vehicles. While it is possible for those fuels to contain fuel additives, as is the case for example with ethanol-based fuel for adapted diesel engines (ED95), they should not be blended with fossil fuels.
- (15) In order to improve air quality in municipalities, it is crucial to renew the transport fleet with clean vehicles. Furthermore, the principles of the circular economy require the extension of product life. Therefore, vehicles that meet the clean vehicles or zero-emission vehicles requirements as a result of retrofitting should also be counted towards the achievement of the respective minimum procurement targets.

(16) 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 those differences. The impact assessment 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. Due to the limited level of market maturity of low- and zero-emission coaches, the relatively limited role of public procurement in this market segment and their specific operational requirements, coaches should not be included in the scope of this Directive. In line with the approach followed in Regulation (EC) No 661/2009 of the European Parliament and of the Council¹ and United Nations Economic Commission for Europe (UNECE) Regulation 107, vehicles of category M₃ with areas for standing passengers to allow for frequent passenger movement are considered to be buses, while vehicles of category M₃ with very limited or no area for standing passengers are considered to be coaches. Given the very limited market for double-decker buses and their specific design limitations, it is appropriate to apply, during the first reference period covered by this Directive, lower minimum procurement targets for zero-emission vehicles belonging to that category of heavy-duty vehicles in Member States where double-decker buses represent a significant share of public procurement.

¹ Regulation (EC) No 661/2009 of the European Parliament and of the Council of 13 July 2009 concerning type-approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefor (OJ L 200 31.7.2009, p. 1).

(17) In order to avoid imposing disproportionate burdens on public authorities and operators, Member States should be able to exempt from the requirements of this Directive the public procurement of certain vehicles with specific characteristics linked to their operational requirements. Those vehicles include armoured vehicles, ambulances, hearses, wheelchair accessible vehicles of category M₁, mobile cranes, vehicles designed and constructed for use principally on construction sites or in quarries, port or airport facilities, as well as vehicles specifically designed and constructed or adapted for use by the armed forces, civil protection, fire services and forces responsible for maintaining public order. Such adaptations may relate to the installation of specialised communications equipment or emergency lights. The requirements provided for in this Directive should not apply to vehicles that are designed and constructed specifically to perform works and which are not suitable for carrying passengers or for transporting goods. Those vehicles include vehicles for road maintenance such as snow ploughs.

(18) Setting minimum targets for the procurement of clean vehicles to be met in two reference periods ending in 2025 and in 2030 at Member State level should contribute to policy certainty for markets where investment in low- and zero-emission mobility is needed. The minimum targets support market creation for clean vehicles throughout the Union. They provide time for the adjustment of public procurement processes and give a clear market signal. Moreover, requiring half of the minimum target for the buses procured in those reference periods to be fulfilled through the procurement of zero-emission buses strengthens the commitment to decarbonisation of the transport sector. It should be noted that trolley buses are considered to be zero-emission buses, provided that they run only on electricity or that they use only a zero-emission powertrain when they are not connected to the grid, otherwise they still count as clean vehicles. The impact assessment notes that Member States increasingly set targets depending on their economic capacity and on the seriousness of the problem. 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). The territorial impact assessment conducted for this Directive illustrated that the impact will be evenly distributed among regions in the Union.

- (19) 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.
- (20) Vehicles with zero emissions at the tail-pipe also leave an environmental footprint due to the emissions deriving from the fuel supply chain, from the extraction phase to the tank, as well as due to the process of manufacture of the components and their level of recyclability. In order to be consistent with the objectives of sustainability, batteries should be produced with the minimum environmental impact inside and outside the Union, in particular regarding the process of extraction of the raw materials to be used in the production of the batteries. The promotion of technologies that address that challenge, such as sustainable and recyclable batteries, can contribute to the overall sustainability of electric vehicles through initiatives such as the EU Battery Alliance and the EU Battery Action Plan and in the context of the review of Directive 2006/66/EC of the European Parliament and of the Council¹. The possible reflection of life cycle CO₂ emissions and of well-to-wheel CO₂ emissions of vehicles should be considered for the period after 2030, taking into account relevant provisions of Union law on their calculation at that point in time.

¹ Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (OJ L 266 26.9.2006, p. 1).

- (21) In its recommendation of 4 April 2017 to the Council and the Commission following the inquiry into emission measurements in the automotive sector¹, the European Parliament called on Member States to foster green public procurement policies through the purchasing of zero-emission vehicles and ultra-low emission vehicles by public authorities for their own fleets or for public or semi-public car-sharing programmes, and for the phasing out of new CO₂-emitting cars by 2035.
- (22) The maximum impact can be achieved if public procurement of clean vehicles is targeted in areas that have a relatively high degree of air and noise pollution. Public authorities in Member States are encouraged to focus particularly on those areas when implementing domestic minimum procurement targets. Public authorities are also encouraged to take measures, such as making available sufficient financial resources to contracting authorities and contracting entities, to avoid that the costs of compliance with the minimum procurement targets established in this Directive lead to higher ticket prices for consumers or to a reduction in public transport services, or discourage the development of non-road clean transport such as trams and metro trains. Public authorities should reflect related action in their reporting under this Directive. In order to avoid a disproportionate burden and optimise the potential results of this Directive, appropriate technical assistance should be provided to public authorities.

¹ OJ C 298, 23.8.2018, p. 140.

- (23) Public transport only contributes to a small share of the emissions originating from the transport sector. 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 impose similar requirements also on private operators and services outside the scope of this Directive, such as taxi, car rental and ride-pooling companies.
- (24) Life-cycle costing is an important tool for contracting authorities and contracting entities to cover energy and environmental costs during the life-cycle of a vehicle, including the cost of greenhouse gas emissions 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/EC and the information provided by contracting authorities and contracting entities on the use of own methodologies tailored to their specific circumstances and needs, no mandatory methodology should be required to be used, but contracting authorities and contracting entities should be able to choose any life-cycle costing methodology in order to support their procurement processes on the basis of the most economically advantageous tender ('MEAT') criteria as described in Article 67 of Directive 2014/24/EU and Article 82 of Directive 2014/25/EU, taking into account cost-effectiveness over the lifetime of the vehicle, as well as environmental and social aspects.

(25) Reporting on public procurement under this Directive should provide a clear market overview to enable effective monitoring of its implementation. Such reporting should start with a preliminary submission of information by Member States to the Commission by ...[36 months after the date of entry into force of this amending Directive], and continue with a first comprehensive report on the implementation of the minimum procurement targets in 2026 and every three years thereafter. The timeframe should be aligned with existing reporting obligations under Directives 2014/24/EU and 2014/25/EU. To minimise the administrative burden on public bodies and establish an effective market overview, simplified reporting should be facilitated. The Commission will provide solutions for the registration and monitoring under the Tenders Electronic Daily database, and will ensure comprehensive reporting on low- and zero-emission vehicles and other alternative fuels 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 Tenders Electronic Daily database.

- (26) Further support for market uptake of clean vehicles and their infrastructure can be achieved by providing targeted public support measures at national and Union level. Such measures include the increased use of Union funds to support the renewal of public transport fleets and 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 the development of infrastructure necessary for the distribution of alternative fuels is recognised in the Guidelines on State aid for environmental protection and energy 2014-2020¹. However, the Treaty on the Functioning of the European Union, and in particular Articles 107 and 108 thereof, will continue to apply to such public support.

¹ OJ C 200, 28.6.2014, p. 1.

(27) Targeted support measures for the procurement of clean vehicles can help contracting authorities and contracting entities. Under the current Multiannual Financial Framework (MFF) for 2014-2020, the Union already possesses an array of different funds to support Member States, local authorities and the operators concerned in their transition to sustainable mobility. In particular, the European Structural and Investment Funds are a key source of financing for urban mobility projects. Horizon 2020, the Union's research programme, established by Regulation (EU) No 1291/2013 of the European Parliament and of the Council¹, funds research and innovation projects on urban mobility and smart cities and communities, while the Connecting Europe Facility, established by Regulation (EU) No 1316/2013 of the European Parliament and of the Council², devotes support to deployment of relevant infrastructure in urban nodes. The introduction of a clean vehicle definition and the setting of minimum targets for their procurement in this Directive can help ensure even better targeted use of Union financial instruments including in the next MFF for 2021-2027. Those support measures will help to reduce the initial high investment in infrastructural changes and will support the decarbonisation of transport.

¹ Regulation (EU) No 1291/2013 of the European Parliament and of the Council of 11 December 2013 establishing Horizon 2020 - the Framework Programme for Research and Innovation (2014-2020) and repealing Decision No 1982/2006/EC (OJ L 347, 20.12.2013, p. 104).

² Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 (OJ L 348, 20.12.2013, p. 129).

- (28) In order to help ensure that the potential benefits are fully exploited, the Commission should provide guidance to Member States with regard to the different Union funds that might be used, and should facilitate and structure the exchange of knowledge and best practices between Member States in order to promote the purchase, lease, rent or hire-purchase of clean and energy-efficient road transport vehicles by contracting authorities and contracting entities. The Commission should also continue to provide technical and financial advisory services to local authorities and operators through instruments such as the European Investment Advisory Hub, JASPERS and JESSICA. Such assistance should include encouraging contracting authorities and contracting entities to pool their resources in the joint procurement of low emission and energy-efficient road transport vehicles, in order to achieve economies of scale and facilitate the achievement of the objectives of this Directive.
- (29) In order to maximise the impact of investments, mobility and urban planning need to be better coordinated, such as through the use of sustainable urban mobility plans (SUMPs). SUMPs are plans that are developed across individual policy areas and in cooperation with different levels of governance combining different transport modes, road safety, freight delivery, mobility management and intelligent transport systems. SUMPs can play an important role in achieving the Union's targets regarding reductions of CO₂ emissions, noise and air pollution.

- (30) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission in relation to setting out the common format for the reports from Member States and their transmission arrangements. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹.
- (31) By 31 December 2027, the Commission should review the implementation of Directive 2009/33/EC. That review should be accompanied, where appropriate, by a legislative proposal to amend that Directive for the period after 2030, including for the setting of new ambitious targets and the extension of the scope to other categories of vehicles, such as L-category vehicles and construction site machinery. In its review, the Commission should also assess, *inter alia*, the possibility of aligning this Directive to any methodology for counting life-cycle CO₂ emissions and well-to-wheel CO₂ emissions developed in the context of EU vehicle CO₂ emission performance standards, as well as the possibility of promoting sustainable and recyclable batteries, and the use of best-graded and retreated tyres.
- (32) Although minimum procurement targets set out in this Directive do not apply to the Union institutions, it is desirable for the Union institutions to lead by example.

¹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (33) 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 in order to achieve those objectives.
- (34) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents¹, 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.
- (35) Directive 2009/33/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

¹ OJ C 369, 17.12.2011, p. 14.

Article 1
Amendments to Directive 2009/33/EC

Directive 2009/33/EC is amended as follows:

- (1) the title is replaced by the following:

‘Directive 2009/33/EC on the promotion of clean road transport vehicles in support of low-emission mobility’;

- (2) Article 1 is replaced by the following:

‘Article 1

Subject matter and objectives

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

(3) Article 2 is replaced by the following:

‘Article 2

Exemptions

Member States may exempt from the requirements laid down in this Directive vehicles referred to in point (d) of Article 2(2) and in points (a) and (b) of Article 2(3) of Regulation (EU) 2018/858 of the European Parliament and of the Council* and in points 5.2. to 5.5. and point 5.7. of Part A of Annex I to that Regulation.

* Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018, p. 1).’;

(4) Article 3 is replaced by the following:

‘Article 3

Scope

1. This Directive shall apply to procurement through:

- (a) contracts for the purchase, lease, rent or hire-purchase of road transport vehicles awarded by 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** of the European Parliament and of the Council;
- (b) public service contracts within the meaning of Regulation (EC) No 1370/2007 of the European Parliament and of the Council*** having as their subject matter the provision of passenger road transport services in excess of a threshold which shall be defined by Member States not exceeding the applicable threshold value set in Article 5(4) of that Regulation;
- (c) service contracts set out in Table 1 of the Annex to this Directive in so far as the contracting authorities or contracting entities are under an obligation to apply the procurement procedures set out in Directives 2014/24/EU and 2014/25/EU.

This Directive shall only apply to such contracts for which the call for competition has been sent after... [24 months after the date of entry into force of this amending directive] or, in cases where a call for competition is not foreseen, where the contracting authority or contracting entity has commenced the procurement procedure after that date.

2. This Directive shall not apply to:

- (a) vehicles referred to in points (a), (b) and (c) of Article 2(2) and in point (c) of Article 2(3) of Regulation(EU) 2018/858;
- (b) vehicles of category M₃ other than Class I and Class A vehicles as defined in points (2) and (3) of Article 3 of Regulation (EC) No 661/2009 of the European Parliament and of the Council****.

* Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

** Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

- *** Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ L 315, 3.12.2007, p. 1).;
- **** Regulation (EC) No 661/2009 of the European Parliament and of the Council of 13 July 2009 concerning type-approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefor (OJ L 200, 31.7.2009, p. 1).';

(5) Article 4 is replaced by the following:

‘Article 4

Definitions

For the purpose of this Directive:

- (1) “contracting authorities” means contracting authorities as defined in point 1 of Article 2(1) of Directive 2014/24/EU and in Article 3 of Directive 2014/25/EU;
- (2) “contracting entities” means contracting entities as defined in Article 4 of Directive 2014/25/EU;
- (3) “road transport vehicle” means a vehicle of category M or N, as defined in points (a) and (b) of Article 4(1) of Regulation (EU) 2018/858;

(4) “clean vehicle” means:

- (a) a vehicle of category M₁, M₂ or N₁ with a maximum tail-pipe emission expressed in CO₂ g/km and real driving pollutant emissions below a percentage of the applicable emission limits as laid down in Table 2 of the Annex, or;
- (b) a vehicle of category M₃, N₂ or N₃ using alternative fuels as defined in points (1) and (2) of Article 2 of Directive 2014/94/EU of the European Parliament and of the Council*, excluding fuels produced from high indirect land-use change-risk feed stock for which a significant expansion of the production area into land with high-carbon stock is observed in accordance with Article 26 of Directive (EU) 2018/2001 of the European Parliament and of the Council**. In the case of vehicles using liquid biofuels, synthetic and paraffinic fuels, those fuels shall not be blended with conventional fossil fuels;

(5) “zero-emission heavy duty vehicle” means a clean vehicle as defined in point 4(b) of this Article without an internal combustion engine, or with an internal combustion engine that emits less than 1 g CO₂/kWh as measured in accordance with Regulation (EC) No 595/2009 of the European Parliament and of the Council*** and its implementing measures, or that emits less than 1 g CO₂/km as measured in accordance with Regulation (EC) No 715/2007 of the European Parliament and of the Council**** and its implementing measures.

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- * Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure (OJ L 307, 28.10.2014, p. 1).
 - ** Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).
 - *** Regulation (EC) No 595/2009 of the European Parliament and of the Council of 18 June 2009 on type-approval of motor vehicles and engines with respect to emissions from heavy duty vehicles (Euro VI) and on access to vehicle repair and maintenance information and amending Regulation (EC) No 715/2007 and Directive 2007/46/EC and repealing Directives 80/1269/EEC, 2005/55/EC and 2005/78/EC (OJ L 188, 18.7.2009, p. 1).
 - **** Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information (OJ L 171, 29.6.2007, p. 1).;

- (6) Article 5 is replaced by the following:

‘Article 5

Minimum procurement targets

1. Member States shall ensure that the procurement of vehicles and services referred to in Article 3 complies with the minimum procurement targets for clean light-duty vehicles set out in Table 3 of the Annex and for clean heavy-duty vehicles set out in Table 4 of the Annex. Those targets are expressed as minimum percentages of clean vehicles in the total number of road transport vehicles covered by the aggregate of all contracts referred to in Article 3, awarded between ... [24 months after the date of entry into force of this amending Directive] and 31 December 2025, for the first reference period, and between 1 January 2026 and 31 December 2030, for the second reference period.
2. For the purpose of calculating the minimum procurement targets, the date of the public procurement to be taken into account is the date of completion of the public procurement procedure, by way of awarding of the contract.
3. Vehicles that meet the definition of clean vehicle under point 4 of Article 4 or of zero-emission heavy-duty vehicle under point 5 of Article 4 as a result of retrofitting may be counted as clean vehicles or zero-emission heavy-duty vehicles, respectively, for the purpose of compliance with the minimum procurement targets.

4. In the case of contracts referred to in point (a) of Article 3(1), the number of road transport vehicles purchased, leased, rented or hire-purchased under each contract shall be taken into account for the purpose of assessing compliance with the minimum procurement targets.
5. In the case of contracts referred to in points (b) and (c) of Article 3(1), the number of road transport vehicles to be used for the provision of the services covered by each contract shall be taken into account for the purpose of assessing compliance with the minimum procurement targets.
6. Where new targets for the period after 1 January 2030 are not adopted, the targets set for the second reference period shall continue to apply, and shall be calculated in accordance with paragraphs 1 to 5, over subsequent five-year periods.
7. Member States may apply or authorise their contracting authorities or contracting entities to apply higher national targets or more stringent requirements than those referred to in the Annex.';

(7) Articles 6 and 7 are deleted;

(8) Article 8 is replaced by the following:

‘Article 8

Exchange of knowledge and best practices

The Commission shall facilitate and structure the exchange of knowledge and best practices between Member States on practices for promoting procurement of clean and energy-efficient road transport vehicles by contracting authorities and contracting entities.’;

(9) Article 9 is replaced by the following:

‘Article 9

Committee procedure

1. The Commission shall be assisted by the committee established by Article 9 of Directive 2014/94/EU.

That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council*.

2. Where reference is made to this paragraph, Article 5 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.
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* Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).';

- (10) Article 10 is replaced by the following:

'Article 10

Reporting and review

1. By ... [36 months after the date of entry into force of this amending Directive] Member States shall inform the Commission of the measures taken to implement this Directive and of the Member States' intentions regarding future implementation activities, including the timing and possible effort-sharing between different levels of governance, as well as on any other information which the Member State considers relevant.

2. By 18 April 2026, and every three years thereafter, Member States shall submit to the Commission a report on the implementation of this Directive. Those reports shall accompany the reports provided for in the second subparagraph of Article 83(3) of Directive 2014/24/EU and the second subparagraph of Article 99(3) of Directive 2014/25/EU, and they shall contain information on the measures taken to implement this Directive, on future implementation activities, as well as any other information which the Member State considers relevant. Those reports shall also include the number and the categories of vehicles covered by the contracts referred to in Article 3(1) of this Directive, based on the data provided by the Commission in accordance with paragraph 3 of this Article. The information shall be presented on the basis of the categories set out in Regulation (EC) No 2195/2002 of the European Parliament and of the Council*.
3. In order to assist the Member States in their reporting obligations, the Commission shall collate and publish the number and the categories of vehicles covered by the contracts referred to in points (a) and (c) of Article 3(1) of this Directive by extracting the relevant data from contract award notices published on the Tenders Electronic Daily (TED) database in accordance with Directives 2014/24/EU and 2014/25/EU.

4. By 18 April 2027, and every three years thereafter, the Commission shall submit a report to the European Parliament and to the Council on the implementation of this Directive, specifying the measures taken by Member States in this regard, following the reports referred to in paragraph 2.
5. By 31 December 2027, the Commission shall review the implementation of this Directive and, where appropriate, submit a legislative proposal for its amendment for the period after 2030, including for the setting of new targets and for the inclusion of other categories of vehicles, such as two- and three-wheeled vehicles.
6. The Commission shall adopt implementing acts in accordance with Article 9(2) setting out the format of the reports referred to in paragraph 2 of this Article and their transmission arrangements.

* Regulation (EC) No 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV) (OJ L 340, 16.12.2002, p. 1).';

(11) the Annex is replaced by the text in the Annex to this Directive.

Article 2
Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ... [24 months after the date of entry into force of this amending Directive]. They shall immediately inform the Commission thereof.

When Member States adopt those 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..

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

Article 3

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 4

Addressees

This Directive is addressed to the Member States.

Done at ...,

For the European Parliament

The President

For the Council

The President

ANNEX

‘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 for services referred to in point (c) of Article 3(1)

CPV Code	Description
60112000-6	Public road transport services
60130000-8	Special-purpose road passenger-transport services
60140000-1	Non-scheduled passenger transport
90511000-2	Refuse collection services
60160000-7	Mail transport by road
60161000-4	Parcel transport services
64121100-1	Mail delivery services
64121200-2	Parcel delivery services

Table 2: Emission thresholds for clean light-duty vehicles

Vehicle categories	Until 31 December 2025		From 1 January 2026	
	CO ₂ g/km	RDE air pollutant emissions* as a percentage of emission limits**	CO ₂ g/km	RDE air pollutant emissions* as a percentage of emission limits**
M ₁	50	80 %	0	n.a.
M ₂	50	80 %	0	n.a.
N ₁	50	80 %	0	n.a.

* Declared maximum real-driving emission (RDE) values of particles number (PN) in #/km and nitrogen oxides (NOx) in mg/km as reported in point 48.2 of the Certificate of Conformity, as described in Annex IX to Directive 2007/46/EC for both complete and urban RDE trips.

** The applicable emission limits laid down in Annex I to Regulation (EC) No 715/2007, or its successors.

Table 3: Minimum procurement targets for the share of clean 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	From ... [24 months after the date of entry into force of this amending Directive] to 31 December 2025	From 1 January 2026 to 31 December 2030
Luxembourg	38,5 %	38,5 %
Sweden	38,5 %	38,5 %
Denmark	37,4 %	37,4 %
Finland	38,5 %	38,5 %
Germany	38,5 %	38,5 %
France	37,4 %	37,4 %
United Kingdom	38,5 %	38,5 %
Netherlands	38,5 %	38,5 %
Austria	38,5 %	38,5 %
Belgium	38,5 %	38,5 %
Italy	38,5 %	38,5 %
Ireland	38,5 %	38,5 %
Spain	36,3 %	36,3 %
Cyprus	31,9 %	31,9 %
Malta	38,5 %	38,5 %
Portugal	29,7 %	29,7 %
Greece	25,3 %	25,3 %

Member State	From ... [24 months after the date of entry into force of this amending Directive] to 31 December 2025	From 1 January 2026 to 31 December 2030
Slovenia	22 %	22 %
Czechia	29,7 %	29,7 %
Estonia	23,1 %	23,1 %
Slovakia	22 %	22 %
Lithuania	20,9 %	20,9 %
Poland	22 %	22 %
Croatia	18,7 %	18,7 %
Hungary	23,1 %	23,1 %
Latvia	22 %	22 %
Romania	18,7 %	18,7 %
Bulgaria	17,6 %	17,6 %

Table 4: Minimum procurement targets for the share of clean heavy-duty vehicles in the total number of heavy-duty vehicles covered by contracts referred to in Article 3 at Member State level*

Member State	Trucks (vehicle category N ₂ and N ₃)	Buses (vehicle category M ₃) [*]		
	From ... [24 months after the date of entry into force of this amending Directive] to 31 December 2025	From 1 January 2026 to 31 December 2030	From ... [24 months after the date of entry into force of this amending Directive] to 31 December 2025	From 1 January 2026 to 31 December 2030
Luxembourg	10 %	15 %	45 %	65 %
Sweden	10 %	15 %	45 %	65 %
Denmark	10 %	15 %	45 %	65 %
Finland	9 %	15 %	41 %	59 %
Germany	10 %	15 %	45 %	65 %
France	10 %	15 %	43 %	61 %
United Kingdom	10 %	15 %	45 %	65 %
Netherlands	10 %	15 %	45 %	65 %
Austria	10 %	15 %	45 %	65 %
Belgium	10 %	15 %	45 %	65 %
Italy	10 %	15 %	45 %	65 %
Ireland	10 %	15 %	45 %	65 %
Spain	10 %	14 %	45 %	65 %
Cyprus	10 %	13 %	45 %	65 %
Malta	10 %	15 %	45 %	65 %
Portugal	8 %	12 %	35 %	51 %
Greece	8 %	10 %	33 %	47 %

Member State	Trucks (vehicle category N ₂ and N ₃)	Buses (vehicle category M ₃) [*]
	From ... [24 months after the date of entry into force of this amending Directive] to 31 December 2025	From 1 January 2026 to 31 December 2030
Slovenia	7 %	9 %
Czechia	9 %	11 %
Estonia	7 %	9 %
Slovakia	8 %	9 %
Lithuania	8 %	9 %
Poland	7 %	9 %
Croatia	6 %	7 %
Hungary	8 %	9 %
Latvia	8 %	9 %
Romania	6 %	7 %
Bulgaria	7 %	8 %

^{*} Half of the minimum target for the share of clean buses has to be fulfilled by procuring zero-emission buses as defined in point 5 of Article 4. This requirement is lowered to one quarter of the minimum target for the first reference period if more than 80 % of the buses covered by the aggregate of all contracts referred to in Article 3, awarded during that period in a Member State, are double-decker buses.'