



Conference of Committee Chairs  
The Chair

303907 03.03.2015

Mr Martin SCHULZ  
President of the  
European Parliament

Geda ref.: D(2015)9947

Subject: Contestation by the Committee on the Internal Market and Consumer Protection (IMCO) of the competence of the Committee on the Environment, Public Health and Food Safety (ENVI) regarding a legislative report entitled **“Proposal for a Regulation of the European Parliament and of the Council on requirements relating to emission limits and type-approval for internal combustion engines for non-road mobile machinery”** (COM(2014)0581 - 2014/0268(COD))

Dear President,

*Dear Martin,*

By letter dated 19 November 2014, the Committee on the Internal Market and Consumer Protection (IMCO) contested the competence of the Committee on the Environment, Public Health and Food Safety (ENVI) concerning the legislative report on requirements relating to emission limits and type-approval for internal combustion engines for non-road mobile machinery (2014/0268(COD)) that was announced in plenary on 12 November 2014. The ENVI Committee opposed the IMCO Committee's contestation of competence by letter dated 16 December 2014.

Despite this exchange of letters, which you will find attached, as well as consideration in the Conference of Committee Chairs, it has not been possible to find a solution acceptable to both committees. Therefore, the Conference of Committee Chairs has mandated me to make a recommendation concerning the IMCO Committee's contestation.

Purpose and legal basis

The current proposal (2014/0268(COD)) seeks to improve the protection of the environment by updating existing emission limits and by extending their scope (where appropriate) for internal combustion engines installed in non-road mobile machinery (e.g. small handheld equipment, construction machinery, generating sets, railcars, locomotives, inland waterway vessels etc). In line with the EU's air quality policy, the objective is to progressively reduce the emissions from new engines being brought on the market and thereby replace the old, more polluting ones over time. At the same time, the proposal also aims to ensure the proper functioning of the internal market, while removing unnecessary burden on the companies operating in it and internationally.

The draft Regulation would also repeal Directive 97/68/EC<sup>1</sup>, while carrying over and improving its existing requirements as regards the following: (1) introduce new emission limits reflecting technological progress and EU policies in the on-road sector, with a view to achieving EU air quality targets; (2) extend the scope, with a view to improving market harmonisation (EU and international) and minimising the risk of market distortions; and (3) introduce measures for simplifying administrative procedures and improving enforcement, including conditions for better market surveillance.

The legal basis of the proposal is Article 114(1) TFEU ("Approximation of laws") that refers to the adoption of provisions in order to achieve the objectives related to the functioning of the internal market.

### Arguments of the parties

By letter dated 19 November 2014, the IMCO Committee has contested the competence of ENVI over the current proposal. IMCO first argues that the proposal establishes an EU market for internal combustion engines by harmonising the technical requirements through an EU type-approval procedure. The first twelve chapters of the proposal notably foresee specific provisions related to type-approval, regarding *inter alia* the obligations of Member States, approval authorities and manufacturers, conduct of EU type-approval procedures, the certificate of conformity and markings etc. The two remaining chapters of the proposal lay down provisions of general nature, whereas the emission limits are regulated only in Annexes II, V and VI.

IMCO thus refers to its competences under Annex VI to the Rules of Procedure for the free movement of goods, including the harmonisation of technical standards, and concludes that type-approval proposals, such as the current draft Regulation, should be attributed under its lead. Other committees could in IMCO's view be involved insofar as the proposal foresees specific provisions falling within their exclusive competence, such as ENVI regarding the establishment of exhaust emission limits set out in the annexes to the current proposal.

By letter dated 16 December 2014, the ENVI Committee has opposed the contestation by IMCO. It first underlines the purpose of the current proposal being the reduction of harmful emissions for non-road mobile machinery. Pursuant to the Commission, the proposal is part of the "air quality package", tying in with certain more specific environmental policies and objectives, i.e. the EU's 6th Environmental Action Programme, the Thematic Strategy on Air Pollution, the National (emissions) Ceilings Directive 2001/81/EC<sup>2</sup>, the Ambient Air Quality Directive 2008/50/EC<sup>3</sup> and the 2011 White Paper on Transport. ENVI notes in this regard its competences vis-à-vis the

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<sup>1</sup> Directive 97/68/EC of the European Parliament and of the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery (OJ L 59, 27.2.1998, p. 1).

<sup>2</sup> Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants (OJ L 309, 27.11.2001, p. 22).

<sup>3</sup> Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, p. 1).

"air quality package" and measures concerning air pollution under Annex VI to the Rules of Procedure.

ENVI further stresses that the current proposal, like several other pieces of legislation on air quality such as the "Euro 6" Regulation (EC) No 595/2009<sup>4</sup>, deploys type-approval as the means to achieve the improvement of air quality. Moreover, ENVI notes that Directive 97/68/EC, to be repealed and replaced by the current proposal, was negotiated under ENVI's lead, as were its three amending Directives (Directives 2002/88/EC, 2004/26/EC and 2011/88/EU), while IMCO did not even contribute with a simple opinion on any of those Directives.

ENVI therefore sees no reason to deviate from established practice, especially as similarly structured pieces of legislation have consistently been attributed under its lead (e.g. Directive 2005/55/EC<sup>5</sup>, Regulation (EC) No 715/2007<sup>6</sup>, Regulation (EC) No 595/2009, Directive 2011/72/EU<sup>7</sup>, Directive 2011/88/EU<sup>8</sup>, Regulation (EU) No 253/2014<sup>9</sup>, Regulation (EU) No 333/2014<sup>10</sup>, Regulation (EU) No 540/2014<sup>11</sup>, draft Regulation 2014/0012(COD)<sup>12</sup>).

ENVI finally contests the IMCO argument that its remit would primarily be affected only by the annexes to the current proposal and refers in this regard to Chapter III ("Substantive requirements") of the draft Regulation, regulating exhaust emission requirements and the monitoring of emissions.

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<sup>4</sup> 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 (OJ L 188, 18.7.2009, p. 1).

<sup>5</sup> Directive 2005/55/EC of the European Parliament and of the Council of 28 September 2005 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines for use in vehicles, and the emission of gaseous pollutants from positive-ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles (OJ L 275, 20.10.2005, p. 1).

<sup>6</sup> 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).

<sup>7</sup> Directive 2011/72/EU of the European Parliament and of the Council of 14 September 2011 amending Directive 2000/25/EC as regards the provisions for tractors placed on the market under the flexibility scheme (OJ L 246, 23.9.2011, p. 1).

<sup>8</sup> Directive 2011/88/EU of the European Parliament and of the Council of 16 November 2011 amending Directive 97/68/EC as regards the provisions for engines placed on the market under the flexibility scheme (OJ L 305, 23.11.2011, p. 1).

<sup>9</sup> Regulation (EU) No 253/2014 of the European Parliament and of the Council of 26 February 2014 amending Regulation (EU) No 510/2011 to define the modalities for reaching the 2020 target to reduce CO<sub>2</sub> emissions from new light commercial vehicles (OJ L 84, 20.3.2014, p. 38).

<sup>10</sup> Regulation (EU) No 333/2014 of the European Parliament and of the Council of 11 March 2014 amending Regulation (EC) No 443/2009 to define the modalities for reaching the 2020 target to reduce CO<sub>2</sub> emissions from new passenger cars (OJ L 103, 5.4.2014, p. 15).

<sup>11</sup> Regulation (EU) No 540/2014 of the European Parliament and of the Council of 16 April 2014 on the sound level of motor vehicles and of replacement silencing systems (OJ L 158, 27.5.2014, p. 131).

<sup>12</sup> Proposal for a Regulation of the European Parliament and of the Council amending Regulations (EC) No 715/2007 and (EC) No 595/2009 as regards the reduction of pollutant emissions from road vehicles (COM(2014)0028 - 2014/0012(COD)).

## Findings

As described above, the draft Regulation establishes emission limits for gaseous pollutants and particulate matter, and the administrative and technical requirements relating to EU type-approval for internal combustion engines to be installed in non-road mobile machinery. The overall aim of the current proposal is thus to protect human health and the environment by improving air quality, and to ensure the proper functioning of the internal market for engines in non-road mobile machinery.

The Commission has also outlined more specific initiatives related to the EU air quality policy that the draft Regulation ties in with, e.g. the EU's 6th Environmental Action Programme, the Thematic Strategy on Air Pollution, the National Ceilings Directive (2001/81/EC), the Ambient Air Quality Directive (2008/50/EC) and the 2011 White Paper on Transport.

Moreover, the draft Regulation repeals and replaces Directive 97/68/EC that laid down initial measures for the reduction of air pollution by engines installed in non-road mobile machinery. That Directive as well as its amending acts (Directives 2002/88/EC, 2004/26/EC and 2011/88/EU) were all deliberated under ENVI's lead with IMCO not contributing even with a simple opinion.

As you will recall, Annex VI to the Rules of Procedure attributes to the IMCO Committee the competence over:

- “1. coordination at Union level of national legislation in the sphere of the internal market and for the customs union, in particular:  
(a) the free movement of goods including the harmonisation of technical standards, (...)
2. the functioning of the Single Market, including measures aimed at the identification and removal of potential obstacles to the implementation of the Single Market, including the Digital Single Market;”

whereas the ENVI Committee is responsible for:

- “1. environmental policy and environmental protection measures, in particular concerning:  
(b) air, soil and water pollution, waste management and recycling, dangerous substances and preparations, noise levels and the protection of biodiversity,”.

As regards the content of the current proposal, a large number of its provisions relate to the EU type-approval procedure for relevant internal combustion engines, setting out the requirements for conducting tests, the validity of type-approval, certificate of conformity and markings, obligations of approval authorities, manufacturers and importers, designation and notification of technical services etc.

The IMCO Committee has in the past held the lead where the proposal in question is purely related to the type-approval and market surveillance of certain vehicles, e.g.

Regulation (EU) No 167/2013<sup>13</sup> (agricultural and forestry vehicles), Regulation (EU) No 168/2013<sup>14</sup> (two- or three-wheel vehicles and quadricycles) and Regulation (EC) No 661/2009<sup>15</sup> (motor vehicles, their trailers and systems).

On the other hand, ENVI has been the lead committee for files where the emission or noise limits for certain vehicles are tied to the type-approval procedures, e.g. Regulation (EC) No 715/2007 (emissions from light passenger and commercial vehicles), Regulation (EC) No 595/2009 (emissions from heavy duty vehicles (Euro VI)) and Regulation (EU) No 540/2014 (sound level of motor vehicles). It should also be noted that a proposal amending the first two Regulations mentioned above (2014/0012(COD)) is currently examined by ENVI with IMCO having decided not to give an opinion on that legislative procedure.

In view that the current proposal sets out emission limits as well as requirements related to EU type-approval, it is appropriate to follow the established practice and examine it under the lead of the ENVI Committee. Moreover, the draft Regulation is closely linked to other EU initiatives in the field of air quality and environmental protection. Finally, the initial Directive 97/68/EC (and its amending acts) that the current proposal builds upon was deliberated at the time by the ENVI Committee with IMCO not contributing even with a simple opinion. For those reasons I believe that the IMCO Committee's involvement for the proposal in question should not extend beyond providing an opinion under Rule 53.

My recommendation to the Conference of Presidents would therefore be:

1. that the IMCO Committee's contestation of competence be dismissed;
2. that the IMCO Committee contribute with an opinion under Rule 53 to the legislative report in question (2014/0268(COD));

Yours sincerely,



Jerzy BUZEK

Chair of the Conference of Committee Chairs

cc: Mr Giovanni LA VIA, Chair of the Committee on the Environment, Public Health and Food Safety  
Ms Vicky FORD, Chair of the Committee on the Internal Market and Consumer Protection

#### *Annexes*

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<sup>13</sup> Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural and forestry vehicles (OJ L 60, 2.3.2013, p. 1).

<sup>14</sup> Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles (OJ L 60, 2.3.2013, p. 52).

<sup>15</sup> 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).



ЕВРОПЕЙСКИ ПАРЛАМЕНТ   PARLAMENTO EUROPEO   EVROPSKÝ PARLAMENT   EUROPA-PARLAMENTET  
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Committee on the Internal Market and Consumer Protection  
The Chairman

SV/cb  
D(2014) 54412

319005   19.11.2014

Mr Jerzy BUZEK  
Chairman  
Conference of Committee Chairs

PHS 08B046

Subject: Attribution of the proposal for a Regulation on requirements relating to emission limits and type-approval for internal combustion engines for non-road mobile machinery (COM(2014) 581 final)

Dear Chairman,

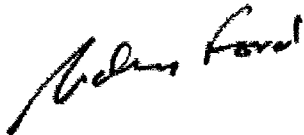
I would like to inform you that the coordinators of the Internal Market Committee strongly contest the referral of the proposal for a Regulation on requirements relating to emission limits and type-approval for internal combustion engines for non-road mobile machinery (COM(2014) 581 final) to the Committee on the Environment, Public Health and Food Safety (ENVI).

This proposal establishes an EU market for internal combustion engines by harmonising the technical requirements through an EU type-approval procedure. The first twelve chapters of the proposal foresee specific provisions relating to type-approval such as the obligations of Member States, approval authorities, manufacturers, importers and distributors, provisions on the substantive requirements, the conduct of EU-type approval procedures, the certificate of conformity and markings, and the designation and notification of technical services. The two remaining chapters of the proposal foresee provisions of a general nature (Implementing and Delegated Acts, Final Provisions). The provisions on emissions however are limited to the annexes II, V and VI.

In accordance with Annex VI of the Rules of Procedure, type-approval proposals should be attributed to the Committee on the Internal Market and Consumer Protection (IMCO) as the lead committee. The EU type-approval is the procedure whereby an approval authority certifies that a product fulfils the relevant administrative provisions and technical requirements with a view to be placed on the Internal Market. As the committee responsible for the free movement of goods, including the harmonisation of technical standards, it is IMCO's rightful expectation to be appointed as lead. Other committees can be involved insofar as a proposal foresees specific provisions which are of their exclusive competence, i.e. the establishment of exhaust emission limits as foreseen by the annexes of the proposal.

For the reasons set out above, my Committee requests that the proposal for a Regulation is attributed to IMCO as the lead committee. I am convinced that, following this attribution, a constructive working arrangement can be reached with the ENVI committee on those specific parts of the proposal concerning the establishment of exhaust emissions limits which are of their exclusive competence.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Vicky Ford', written in a cursive style.

Vicky Ford

cc.: Mr Giovanni LA VIA, Chairman of the ENVI Committee



ЕВРОПЕЙСКИ ПАРЛАМЕНТ PARLAMENTO EUROPEO EVROPSKY PARLAMENT EUROPA-PARLAMENTET  
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Committee on the Environment, Public Health and Food Safety  
The Chair

NN/JV/mcd  
D(2014)60693

204414 16.12.2014

Jerzy Buzek  
Chair of the Conference of Committee  
Chairs  
European Parliament  
PHS 8B46

**Subject: Challenge of competence by IMCO as regards non-road mobile machinery  
(2014/0268(COD))**

Dear Chair,

I would like to inform you that the coordinators of the Committee on Environment, Public Health and Food Safety object to the request of the Committee on the Internal Market and Consumer Protection to attribute the proposal for a Regulation of the European Parliament and the Council on requirements relating to emission limits and type-approval for internal combustion engines for non-road mobile machinery to IMCO as the lead committee. While IMCO has good reasons to give an opinion on this proposal, the arguments put forward in the letter by Ms Ford from 19.11.2014 do not justify the attribution of the proposal to IMCO as the lead committee.

In accordance with Article 1 of the proposal, its purpose is the reduction of harmful emissions from non-road mobile machinery. According to the Commission, the proposal is part of the "air quality package", which will be examined by the ENVI Committee as lead committee. As the Commission states in its explanatory memorandum on p. 3 of its proposal, "the initiative under consideration ties in with the following more specific environmental policies and objectives: the 6th Environmental Action Programme, the Thematic Strategy on Air Pollution, the National (emission) Ceilings Directive, the Ambient Air Quality Directive and the 2011 White Paper on Transport". Like in several other pieces of legislation on air quality, such as the "Euro 6" Regulation (EC) No 595/2009, the proposal deploys type-approval as the means to achieve the improvement of air quality. Pursuant to Annex VI point VIII.1.b of the Rules of Procedure, measures concerning air pollution fall within the responsibility of the ENVI committee.



The proposed Regulation repeals and replaces Directive 97/68/EC of the European Parliament and the Council of 16 December 1997 on the approximation of the laws of the Member States relating to measures against the emission of gaseous and particulate pollutants from internal combustion engines to be installed in non-road mobile machinery. This Directive provides for type-approval procedures as a means to harmonise emission standards. It was negotiated with ENVI as lead committee, as were all of its three amending Directives (Directive 2002/88/EC, Directive 2004/26/EC and Directive 2011/88/EU), and to my surprise, IMCO did not even deliver an opinion on any of those Directives.

The ENVI committee does not see any convincing reason to deviate from this continuous established practice. All the more so as many other, similarly structured pieces of legislation regulating emissions, have consistently been attributed to ENVI as lead committee:

- Directive 2005/55/EC on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from compression-ignition engines for use in vehicles, and the emission of gaseous pollutants from positive-ignition engines fuelled with natural gas or liquefied petroleum gas for use in vehicles;
- Regulation (EC) No 715/2007 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; this Regulation is currently under revision in ENVI, with IMCO having decided not to deliver an opinion;
- Regulation (EC) No 595/2009 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; this Regulation is – together with the previous one – also currently under revision in ENVI, with IMCO having decided not to deliver an opinion;
- Directive 2011/72/EU of the European Parliament and of the Council of 14 September 2011 amending Directive 2000/25/EC as regards the provisions for tractors placed on the market under the flexibility scheme;
- Directive 2011/88/EU amending Directive 97/68/EC as regards the provisions for engines placed on the market under the flexibility scheme;
- Regulation (EU) No 253/2014 of the European Parliament and of the Council of 26 February 2014 amending Regulation (EU) No 510/2011 to define the modalities for reaching the 2020 target to reduce CO<sub>2</sub> emissions from new light commercial vehicles;
- Regulation (EU) No 333/2014 amending Regulation (EC) No 443/2009 to define the modalities for reaching the 2020 target to reduce CO<sub>2</sub> emissions from new passenger cars;
- Regulation (EU) No 540/2014 on the sound level of motor vehicles and of replacement silencing systems;
- proposal for a Regulation as regards the reduction of pollutant emissions from road vehicles (on-going, 2014/0012 (COD); this proposal amends Regulations (EC) No 715/2007 and (EC) No 595/2009).

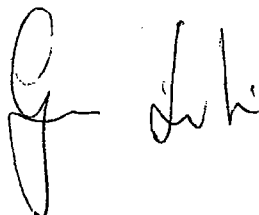
Finally, in reply to IMCO's claim that "the provisions on emissions are [...] limited to the annexes II, V and VI", I would like to point out that the central Chapter III, entitled "Substantive provisions", regulates exhaust emission requirements and the monitoring of emissions.

I trust that you will carefully consider the above-mentioned arguments when looking into the request made by IMCO, and I remain at your disposal for any further information you might need.

I would be grateful if the Conference of Committee Chairs could make a recommendation on this matter to the Conference of Presidents as soon as possible, in order to enable a timely start of the substantial discussions.

Yours sincerely,

Giovanni La Via

A handwritten signature in dark ink, consisting of a large, stylized 'G' followed by 'La Via' in a cursive script.

Cc: Vicky Ford, Chair - Committee on the Internal Market and Consumer Protection