

MEETING DOCUMENT No. TA 18/16

Motor Vehicles

**Proposal for a Regulation of the European Parliament and of the Council
on the approval and market surveillance of motor vehicles and their trailers,
and of systems, components and separate technical units intended for such vehicles**

Working Party on Technical Harmonisation - Motor Vehicles

8 June 2016

Delegations will find attached comments from the Romanian delegation.

RO comments to Art. 60 - 86 of
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the
approval and market surveillance of motor vehicles and their trailers, and of systems, components
and separate technical units intended for such vehicles
(doc. 5712/16)

Art. 60 para. 2

2. The approval authorities of the Member States shall accept approvals granted in accordance with the UNECE regulations referred to in paragraph 1 and, where applicable, the relevant approval marks, in place of the corresponding approvals and approval marks granted in accordance with this Regulation and the regulatory acts adopted pursuant to this Regulation.	2. The approval authorities of the Member States shall accept approvals granted in accordance with the UNECE regulations referred to in paragraph 1 and, where applicable, the relevant approval marks, in place of the corresponding approvals and approval marks granted in accordance with this Regulation and the regulatory acts adopted pursuant to this Regulation.
<i>Justification:</i> Art. 60 refers to the UNECE Regulations that are included in the EU type-approval legislation (Annex IV). Consequently, the acceptance of the UNECE approvals is mandatory. Para. 2 is useless.	

Art. 63 and 64

... vehicle, system, component or separate technical unit...	... vehicle, system, component, or separate technical unit, <u>parts or equipments</u> ...
<i>Justification:</i> The information for users is necessary also for parts and equipments; besides, in Art. 64 (1) there is a direct reference to Art. 55.	

Art. 63 (3)

3. The information referred to in paragraph 2 shall be supplied in the official language or languages of the Member State where the vehicle, system, component or separate technical unit is to be placed on the market, registered or is to be entered into service. It shall be provided in the owner's manual after acceptance by the approval authority.	3. The information referred to in paragraph 2 shall be supplied in the official language or languages of the Member State where the vehicle, system, component or separate technical unit is to be placed on the market, registered or is to be entered into service. It shall be provided in the owner's manual after acceptance by the approval authority.
<i>Justification:</i> It is not necessary and possible.	

Art. 71 para. 4

4. The type-approval authority shall not perform any activities that technical services perform and shall not provide consultancy services on a commercial or competitive basis.	4. The type-approval authority shall not perform any activities that technical services perform and shall not provide consultancy services on a commercial or competitive basis.
<i>Justification:</i> Contradiction with art. 72 (2). RO considers that it is important to maintain the possibility of TAA to be designated also as TS.	

Chapter XIV and XV – GENERAL SCRUTINY RESERVATION.

Art.71 para. 8-10 TO BE DELETED

Justification: It is no justification for that complicated procedure. There is not any proof of the wrong or fraudulent activity of the TAA's or TS's. The procedure introduces an unjustified suspicion between the TAA's. On the other hand, the TAA's activities are subject to the free competition. We consider that the direct intervention of a TAA in the other TAA's designation is not acceptable. It is also a procedure very hard to put into practice - no impact study about the costs for MS and Commission available. Having in view that the majority of the applicable regulatory acts are UNECE Regulation, it is a procedure applicable for only a limited number of normative acts (about 10 %).

Art. 72 para. 3

3. A technical service shall be established under the national law of a Member State and have legal personality, except for an accredited in-house technical service of a manufacturer, as referred to in Article 76.	3. A technical service shall be established under the national law of a Member State and have legal personality, except for <u>a technical service belonging to a type approval authority and for</u> an accredited in-house technical service of a manufacturer, as referred to in Article 76.
<i>Justification:</i> The technical services belonging to a type approval authority can not have the own legal personality.	

Art. 72 para. 4

4. A technical service shall take out liability insurance for its activities unless that liability is assumed by the Member State in accordance with national law, or the Member State itself is directly responsible for the conformity assessment.	4. A technical service shall take out liability insurance for its activities unless that liability is assumed by the Member State in accordance with national law, or the Member State itself is directly responsible for the conformity assessment.
<i>Justification:</i> .. We consider that the liability is a national problem.	

Art. 77 para. 1-10 TO BE DELETED

Justification: As in art. 71 it is proposed a very complicated and costly procedure without a real justification. It is not take into consideration the fact that the TS are designated for each normative act. So it is possible that a TS needs to be designated several times. It is not clear the application for the TS's designated by several MS. It is also a procedure very hard to put into practice - no impact study about the costs for MS and Commission available. Having in view that the majority of the applicable regulatory acts are UNECE Regulation, it is a procedure applicable for only a limited number of normative acts (about 10 %).

Art. 77 para. 12

<p>12. The approval authority that intends to be designated as a technical service in accordance with Article 72(2) shall document compliance with the requirements of this Regulation through an assessment conducted by independent auditors. Those auditors shall not belong to the same approval authority and shall comply with the requirements laid down in Appendix 2 of Annex V.</p>	<p>12. The approval authority that intends to be designated as a technical service in accordance with Article 72(2) shall document compliance with the requirements of this Regulation through an assessment conducted by independent auditors. Those auditors shall not belong to the same approval authority be independent in relation to the technical service and shall comply with the requirements laid down in Appendix 2 of Annex V.</p>
<p><i>Justification:</i> Clarification of the text. The auditor could be part of the approval authority but independent in relation to the technical service. Otherwise, it would be an implicate obligation for accreditation of these TS's.</p>	

Art. 78 para. 2

<p>2. Within 28 days of a notification, a Member State or the Commission may raise written objections, setting out its arguments, with regard either to the technical service or to its monitoring by the type-approval authority. When a Member State or the Commission raises objections, the effect of the notification shall be suspended. In this case, the Commission shall consult the parties involved and shall decide by means of an implementing act whether the suspension of the notification can be lifted or not. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 87(2). Where no objection is raised or where the Commission is of the opinion that the notification may be accepted fully or partially, the Commission shall publish the notification in accordance with paragraph 5.</p>	<p>2. Within 28 days of a notification, a Member State or the Commission may raise written objections, setting out its arguments, with regard either to the technical service or to its monitoring by the type-approval authority. When a Member State or the Commission raises objections, the effect of the notification shall be suspended. In this case, the Commission shall consult the parties involved and shall decide by means of an implementing act whether the a suspension of the notification can be applied lifted or not. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 87(2). That suspension will be maintain until the elimination of the causes that determined it. Where no objection is raised or where the Commission is of the opinion that the notification may be accepted fully or partially, the Commission shall publish the notification in accordance with paragraph 5.</p>
<p><i>Justification:</i> It is an abusive procedure that could block the activity of a TS for a long period of time, which may lead even to its dissolution. There is not provided any responsibility for the MS or Commission in the case of rising a wrong objection. The activity should be continued until a justified decision will be taken.</p>	

Art. 79 para. 2

<p>2. In the event of a restriction, suspension or withdrawal of the designation, or where the technical service has ceased its activity, the designating approval authority shall transfer the files of that technical service to another technical service for further processing or keep them available for the approval authorities or for the market surveillance authorities.</p>	
<p><i>Justification:</i> The text is not clear. What are the files that could be transferred? Some of them belongs to the TS. What about the confidentiality? How to keep files available for a TS which has ceased its activity?</p>	

Art. 79 para. 3 and 4 – it is necessary to reassess those provisions. It is very difficult to assess the effect of non-compliance for the approvals already granted. That could also pose seriously legal problems. The manufacturers could be seriously affected even that is not their fault. A TAA could not assume the function of a TS if is not assessed and designated according to the procedures.

Art. 80 para. 3b

<p>3. At least every 30 months, the type-approval authority shall assess whether each technical service under its responsibility continues to satisfy the requirements set out in Articles 72 to 76, in Articles 84 and 85 and in Appendix 2 to Annex V. This assessment shall include an on-site visit to each technical service under its responsibility.</p> <p>Within two months after finalising this assessment of the technical service, the Member States shall report to the Commission and to the other Member States on those monitoring activities. The reports shall contain a summary of the assessment which shall be made publicly available.</p>	<p>3. At least every 30 months, the type-approval authority shall assess whether each technical service under its responsibility continues to satisfy the requirements set out in Articles 72 to 76, in Articles 84 and 85 and in Appendix 2 to Annex V. This assessment shall include an on-site visit to each technical service under its responsibility.</p> <p>Within two months after finalising this assessment of the technical service, On request, the Member States shall report to the Commission and to the other Member States on those monitoring activities. The reports shall contain a summary of the assessment which shall be made publicly available.</p>
<p><i>Justification:</i> Unjustified administrative burdens.</p>	

Art. 86 - TO BE DELETED.

We do not agree with a fee system. The relation between TAA's and TS's is a contractual relation.