

**MEETING DOCUMENT No. TA 20/16**

**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 Latvian delegation.

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## LV comments to Chapters XII - XV 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. 71

#### Article 71

*Type approval authority responsible for technical services*

*Considerations:* **Latvia has placed a general reservation on Article 71** because of several uncertainties that appears in the initial draft. See our comments on specific paragraphs below.

### Art. 71 para. 3

~~3. The type approval authority shall be organised so that the notification of a technical service is done by personnel different from those who carried out the assessment of the technical service.~~

*Request:* We propose to delete this paragraph as it is unclear why the personnel that carried out the assessment of technical service shall not be the same that notifies it. We do not see any problem if person that assessed the technical service, was actually there and made sure that everything complies with the requirements, is the same person that notifies it.

There is another uncertainty, to the best of our knowledge it is not a personnel which notifies anything, but it is done by an organization.

### 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.~~

*Request:* We propose to delete this paragraph because it is controversial to paragraph 2 of Article 72 which in turn concerns the situation where type-approval authority could be designated as a technical service. **We maintain that type-approval authority should be allowed to act as a technical service** otherwise it could turn out to be unjustified and unnecessary burden for small manufacturers especially in situation where there are only few manufacturers and separate technical service is not established, which is particularly the case in Latvia. No doubt there is always a possibility to involve some distant technical services but this makes the tests non-affordable and the already small manufacturing extremely compromised. In our opinion, if type approval authority is allowed to act as a technical service according to Article 71, this paragraph makes no sense.

### Art. 71 para. 6

~~6. The type approval authority shall have a sufficient number of competent personnel at its disposal for the proper performance of the tasks foreseen by this Regulation.~~

*Request:* We propose to delete this paragraph because we have already mentioned previously that criteria for type approval authorities should be on national responsibility, this covers also the number of personnel. We would like to point out that there are differently organised type approval authorities and not all of them are granting approvals for every vehicle, system, component and separate technical unit. We agree with the Austrian delegation that such order should be maintained and type approval authorities could choose how many and what experts to employ. It should clearly outline that such uniform provision is not needed.

#### Art. 71 para. 7

7. Member States shall provide the Commission and the other Member States with information on their procedures for the assessment, designation and notification of technical services and for the monitoring of technical services, and of any changes thereto.

*Request:* Information that shall be provided to Member States and the Commission according to paragraph 7 should be specified, otherwise this requirement will end in 28 different reports and approaches. It should be specified when this information shall be provided and what should be the content.

#### Art. 71 para. 8

8. The type-approval authority shall be peer-reviewed by two type-approval authorities of other Member States every two years.

The Member States shall draw up the annual plan for the peer-review, ensuring an appropriate rotation in respect of reviewing and reviewed type-approval authorities, and submit it to the Commission.

The peer-review shall include an on-site visit to a technical service under the responsibility of the reviewed authority. The Commission may participate in the review and decide on its participation on the basis of a risk assessment analysis.

*Request:* We do not see how the proposed system could practically work due to the very broad text that lacks consistency or even confidence that this has been written taking into account possibilities or specific work that is done by the type approval authorities. We are not professional auditors, nor government of particular Member State that could judge the work of one or another approval authority. Especially when authorities are having different structures, scope of approvals and even experience. We are concerned that there are neither criteria, nor provisions, nor procedure for this peer-review. Bluntly put, a type approval authority could end up being at the mercy of reviewers acting according to its own discretion.

An on-site visit to a technical service under the responsibility of the reviewed authority will cause a financial and administrative burden due to the fact that one technical service could be notified by several type approval authorities and it is possible for the type approval authority to notify more than one technical service. There might be also a situation when approval authority has notified technical services only in other Member States. These on-site visits seem nearly impossible due to the number and location of these technical services. This can be easily ensured looking through the list of notified technical services for each Member State. The resources to carry out approval authority reviews once every two years are significant, not mentioning on site visits in technical services.

If there are no clear grounds for introducing such system (not clear what should be improved in such way), the necessity of such system at all is doubtful. It might be possible to use the information exchange forum for such procedures – it would reduce costs. **While we do not see any value of such reviews, we propose to delete this and other paragraphs that concerns the peer reviews.**

## Art. 77

### Article 77

#### *Assessment and designation of technical services*

*Considerations:* **Latvia has placed a general reservation on Article 77** taking into account the substantial financial and administrative burden that is expected to occur due to the requirements of this Article, please find comments on specific paragraphs below.

### Art. 77 para. 1

1. Before designating a technical service, the type-approval authority shall assess it in accordance with an assessment check-list that covers at least the requirements listed in Appendix 2 of Annex V. The assessment shall include an on-site assessment of the premises of the applying technical service, and, where relevant, of any subsidiary or sub-contractor, located inside or outside the Union.

Representatives of the type-approval authorities of at least two other Member States shall, in coordination with the type-approval authority of the Member State in which the applicant technical service is established, and together with a representative of the Commission, form a joint assessment team and participate in the assessment of the applicant technical service, including the on-site assessment. The designating type-approval authority of the Member State where the applicant technical service is established shall give those representatives timely access to the documents necessary to assess the applicant technical service.

*Considerations:* The requirements for the assessment of technical service stated in this paragraph are so incomplete that leaves room for different interpretations and subjective assessment. As a result, impact of such assessments is very hard to predict and it will more likely create several burdens instead of making the system more trusted. In our opinion **the check list should be the same with no possibilities to change it on a subjective basis**. We are also concerned about the financial and human resources that would be needed to carry out these and other questionable assessments that are introduced in this Regulation.

This paragraph should also foresee a situation when technical service can be designated only by the type approval authority of another Member State. Right now the second passage refers to type approval authority of the Member State in which the applicant technical service is established but this is not always the case.

### Art. 77 para. 7

7. The type-approval authority shall notify the assessment report to the Commission and to designating authorities of the other Member States with documentary evidence regarding the competence of the technical service and the arrangements in place to regularly monitor the technical service and ensure that it continues to comply with the requirements of this Regulation.

The notifying type-approval authority shall furthermore submit evidence of the availability of competent personnel for monitoring the technical service in accordance with Article 71(6).

*Considerations:* Notifying the assessment report to the Commission is unnecessary due to the fact that representative of the Commission is present in the assessment team according to paragraph 1. It would be useful to **notify these assessments using a common platform for information exchange so that these reports could be obtained on demand**, rather than sending them to all Member States. The last sentence is unnecessary if there are no requirements for competence of the personnel, it should be reconsidered.

#### Art. 77 para. 11

~~11. The validity of the designation of technical services shall be limited to a maximum of five years.~~

*Request:* We propose to delete this paragraph because there is no need for limited validity if there must be an assessment at least every 30 months (or whatever the term that Member States will agree with) according to paragraph 3 of Article 80.

#### Art. 77 para. 12

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.

*Request:* A common understanding about independent auditors mentioned in paragraph 12 should be provided. Current wording is not very clear and furthermore, if there aren't any specific requirements for these auditors, it should be considered whether this procedure is necessary at all.

#### Art. 79 para. 4(a)

4. (a) in the case of suspension of a notification, on condition that, within three months after the suspension, the type-approval authority that issued the type-approval certificate confirms in writing to the type-approval authorities of the other Member States and the Commission that it is assuming the functions of the technical service during the period of suspension.

*Considerations:* We look very cautiously to the fact that certificates could remain valid in case of suspension, if type approval authority is assuming the functions of technical service. This could lead to situation that type approval authority is responsible for the particular product and might not have all the information available that technical service had. In other words, approval authority could not take responsibility for other legal person with its own responsibility. Secondly, not all approval authorities are designated as a technical service, therefore they cannot assume these functions and this leads to uneven situation. We would like to draw the attention of the Commission to the fact that this condition puts manufacturer in an unfair situation because of technical service, even if manufacturer has done everything right. In our opinion, in the case of suspension of a notification, type approvals should remain valid. They could become invalid only where there has been any nonconformities in the COP or complaints. **We assume the initial draft as very unfavourable for the manufacturer and think that this paragraph should be reconsidered.**

#### Art. 80 para. 4

~~4. Five years after the notification of a technical service, and every fifth years thereafter, the assessment to determine whether the technical service still complies with the requirements set out in Articles 72 to 76, in Articles 84 and 85 and in Appendix 2 to Annex V shall be carried out by the type approval authority of the Member State in which the technical service is established and a joint assessment team designated in accordance with the procedure described in Article 77(1) to (4).~~

*Request:* We propose to delete this paragraph as it duplicates the requirements from paragraph 3 of Article 80. If conformity with the same requirements (Articles 72 to 76, Articles 84 and 85, Appendix 2 to Annex V) should be assessed every 30 months, there is no need to repeat this procedure after every 5 years, no matter what the assessment group consists of. If this requirement is being retained, it should be clarified whether these assessments refer to technical services that are located in particular Member State or all technical services should be assessed.

## Art. 86

### Article 86

#### *National fees for costs relating to the activities exercised by the type-approval authorities*

*Considerations:* **Latvia has placed a general reservation on Article 86** as it covers the controversial national fee system for which we have already expressed our opinion previously. We object that the Commission may adopt implementing acts in order to set out the structure and the level of the fees on technical services. We would like to reiterate that fee structure must be in the competence of the Member State only. Different market situations and possibilities should be taken into account and there is no need for regulating national procedures.

### Information about national system in Latvia

There is only one type approval authority in Latvia and it is Road Traffic Safety Directorate (CSDD). Approval authority is also designated as a technical service and is carrying out tests for local manufacturers. There are designated technical services also in other Member States. CSDD is subjected to the Ministry of Transport, therefore cannot always make important decisions as an approval authority on its own. This covers also the national fee system proposed by the Commission, which would need a debate in the level of Ministries.

The scope of approvals covers mainly WVTAs for trailers and the second stage approvals, there are plenty of parameters and regulatory acts according to which type approvals are not being granted. Type approval work is being provided by one department of organisation (CSDD) which is responsible for vehicle registration, technical inspection, driving exams and road traffic regulations, statistics etc. Accordingly human resources of this department are such that covers only the actual scope of type approvals.

All fees are applicable according to approved price-list (some prices should be approved by the Cabinet of Ministers). Every payment of approval authority must comply with the national legislation and is subject to certain procurement procedure, therefore it would be impossible to finance inspections and tests carried out by the Commission or pay the particular technical service for the tests.

The market surveillance authority in Latvia is Consumer Rights Protection Centre (PTAC) and it is subjected to another ministry. Market surveillance authority is not experienced or even connected with type approvals and tests that are being carried out.

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