



Brussels, **XXX**

[...](2018) **XXX** draft

COMMISSION REGULATION (EU) .../...

of XXX

amending Annex IV to Regulation (EC) No 661/2009 of the European Parliament and of the Council and Annexes I, III and IV to Directive 2007/46/EC of the European Parliament and of the Council as regards updating the references to and inclusion of certain Regulations of the United Nations Economic Commission for Europe on the type-approval of motor vehicles

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

Regulation (EC) No 661/2009 on general vehicles safety (GSR)¹ has repealed a large number of EC Directives and replaced them with existing international standards under the United Nations framework. The United Nations Economic Commission for Europe (UNECE) develops harmonised requirements (UN Regulations) intended to remove technical barriers to trade in motor vehicles between the Contracting Parties to the Revised 1958 Agreement and to ensure that such vehicles offer a high level of safety and environmental protection. These UN regulations are regularly updated to take into account technical progress.

The Framework Directive 2007/46/EC² sets out harmonised safety and environmental requirements that motor vehicles have to comply with before being placed on the internal market, thus facilitating the free movement of vehicles. This Directive incorporates UN Regulations in the EU type-approval system, either as requirements for type-approval or as alternatives to Union legislation. Since the adoption of that Directive, UN Regulations have increasingly been incorporated into Union legislation in the framework of the EU type-approval.

Given that the annexes to the GSR and the Framework Directive contain static references to UN Regulations, the lists contained therein need to be regularly amended to reflect new series of amendments of existing UN Regulations and new UN Regulations adhered to by the Union, which are subsequently translated into all EU languages and published in the Official Journal.

This is the 5th cycle of amendments to the GSR since its adoption in 2009, the previous being done in 2011³, 2012⁴, 2015⁵ and 2016⁶.

- **Consistency with existing policy provisions in the policy area**

This proposal complements and is fully in line with the Union's internal market policy as regards the automotive industry.

In January 2017, the Commission tabled a proposal for Regulation of the European Parliament and of the Council on the approval and market surveillance of motor vehicles⁷, which was recently adopted by the legislators. It will repeal the currently applicable Framework Directive with effect from 1 September 2020.

In May 2018, the European Commission adopted also a proposal for a revision of the General Safety Regulation⁸, which is intended to repeal and replace Regulation (EC) No 661/2009 once adopted by the legislators and applied.

¹ OJ L 200, 31.7.2009, p. 1.

² OJ L 263, 9.10.2007, p. 1.

³ OJ L 108, 28.4.2011, p. 13.

⁴ OJ L 160, 21.6.2012, p. 8.

⁵ OJ L 28, 4.2.2015, p. 3.

⁶ OJ L 165, 23.6.2015, p. 1.

⁷ COM(2016) 31.

⁸ COM(2018) 286.

Notwithstanding these developments in the legislative framework, the annexes to the currently applicable regulatory acts have to continue to be regularly updated in order to take account of technical progress until the new Regulations come into effect.

- **Consistency with other Union policies**

The United Nations Economic Commission for Europe (UNECE) system is linked to the Union policy on competitiveness, on which this initiative has a positive impact. This proposal is also consistent with Union transport and energy policies, which are duly considered in the process for the drafting and adoption of the UN Regulations falling under the 1958 Agreement.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis of this Commission Regulation is Article 39(2) of Directive 2007/46/EC of the European Parliament and of the Council and Article 14(1)(a) and (f) of Regulation (EC) No 661/2009 of the European Parliament and of the Council which provide for a mandate for the Commission to adopt implementing measures to update the respective annexes to the two acts in order to adapt them to technical progress.

- **Subsidiarity (for non-exclusive competence)**

The incorporation of UN Regulations and their amendments into the Union system for the EU type-approval of motor vehicles can only be done by the Union. This does not only prevent fragmentation of the internal market, but also ensures equal environmental and safety standards across the Union. The proposal therefore complies with the subsidiarity principle.

- **Proportionality**

This is an act of technical nature necessary for the regular implementation of the GSR and the Framework Directive via their continuous update to technical progress. It complies with the proportionality principle as it does not go beyond what is necessary in order to achieve the objectives of ensuring the proper functioning of the internal market, while at the same time providing for a high level of public safety and protection.

- **Choice of the instrument**

The proposal amends a regulation, hence the instrument chosen is also a regulation.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

Not applicable.

- **Collection and use of expertise**

External expertise is not relevant in the case of this proposal. It is however subject to positive vote of the Technical Committee on Motor Vehicles.

- **Impact assessment**

This proposal cannot be the subject of an impact assessment as no alternative policy options are available or possible.

- **Regulatory fitness and simplification**

This proposal is not expected to have any negative repercussions in terms of increased regulatory burden on EU automotive enterprises, including SMEs, as it only updates the references to international standards already covered by the existing vehicle type-approval legislative framework. Moreover, the acceptance of internationally harmonised vehicle regulations by the Union's trading partners is recognised to have a very positive impact on automotive EU competitiveness and international trade.

- **Fundamental rights**

This measure has no consequences for the protection of human rights.

4. BUDGETARY IMPLICATIONS

This initiative has no budgetary implications.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

The proposal introduces the following amendments:

– updated references to the new series of amendments of UN Regulations Nos. 10, 16, 34, 39, 44, 48, 58, 67, 79, 94, 100, 107, 117, 119, 123, 125, and 128, to be applied on mandatory basis in the Union (Annex IV, GSR);

– references to UN Regulations No 139 (brake assist), No 140 (stability control) and No 141 (tyre pressure monitoring systems) are added to the list of mandatory requirements (Annex IV, GSR);

– a new point on Acoustic Vehicle Alerting Systems (AVAS), type-approved either in accordance with Regulation (EU) No 540/2014 or UN Regulation No 138 is added to the list of information for the purposes of EU type-approval and the information document (Annex I and Section A of Part I to Annex III to the FD);

– the requirements which apply for the purpose of EU type-approval of vehicles are complemented with a reference to UN Regulation No 0 on uniform provisions concerning International Whole Vehicle Type Approval (Annex IV, GSR, and Part II of Annex IV, FD);

– updated table with alternative requirements for the purpose of EU type-approval of vehicles (Part II of Annex IV to the FD).

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(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive)⁹, and in particular Article 39(2) thereof,

Having regard to 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 therefor¹⁰, and in particular Article 14(1)(a) and (f) thereof,

Whereas:

- (1) Annex IV of Directive 2007/46/EC lists the requirements applicable for the purpose of EC type-approval of motor vehicles. Those requirements include Union legislation and in some cases UN Regulations adopted in the context of the United Nations Economic Commission for Europe, which apply either on a compulsory basis or as an alternative to the Union requirements.
- (2) Annex IV to Regulation (EC) No 661/2009 lists the UN Regulations which apply on a compulsory basis in the context of the general safety of vehicles.
- (3) The lists of requirements applicable for the purpose of EU type-approval in Annex IV of Directive 2007/46/EC and the list of UN Regulations which apply on a compulsory basis in Annex IV to Regulation (EC) No 661/2009 are updated frequently to reflect the application at Union level of new requirements in the respective UN Regulations.
- (4) UN Regulation No 0 on the International Whole Vehicle Type Approval¹¹ was recently adopted in the context of the United Nations Economic Commission for Europe in order to reduce barriers to trade between the Contracting Parties applying that UN Regulation, which include the Union and its Member States, and to provide an increased level of certainty for vehicle manufacturers seeking recognition of their type-approval in those Contracting Parties.

⁹ OJ L 263, 9.10.2007, p. 1.

¹⁰ OJ L 200, 31.7.2009, p. 1.

¹¹ OJ L 135, 31.5.2018, p. 1.

- (5) It is appropriate to update the lists of requirements which apply for the purpose of EC type-approval of vehicles included in Annex IV of Directive 2007/46/EC, as well as the list of UN regulations which apply on a compulsory basis set out in Annex IV to Regulation (EC) No 661/2009 in order to reflect the changes introduced by UN Regulation No 0.
- (6) The table in PART II of Annex IV to Directive 2007/46/EC is outdated. For this reason, it is necessary to update the list of UN Regulations the requirements of which are considered as equivalent to the Union requirements for the purposes of EC type-approval.
- (7) It is also necessary to update the list of information for the purposes of EC type-approval of vehicles contained in Annex I and the information document in Section A of Part I of Annex III to Directive 2007/46/EC with references to Acoustic Vehicle Alerting Systems to be approved in accordance with the provisions either of Regulation (EU) No 540/2014 of the European Parliament and of the Council¹² or of UN Regulation No 138¹³.
- (8) Since the new requirements of UN Regulations No 139, No 140 and 141 will require manufacturers to adapt their vehicles, sufficient time should be provided for the application of those requirements.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Technical Committee – Motor Vehicles,

HAS ADOPTED THIS REGULATION:

Article 1

Annex IV to Regulation (EC) No 661/2009 is amended in accordance with Annex I to this Regulation.

Article 2

Annexes I, III and IV to Directive 2007/46/EC are amended in accordance with Annex II to this Regulation.

Article 3

1. With effect from 1 January 2019, for the purposes of EC type-approval of new types of vehicle with regard to their brake assist systems, Member States shall only accept approvals granted under UN Regulation No 139.
2. With effect from 1 January 2019, for the purposes of EC type-approval of new types of vehicle with regard to their electronic stability control systems, Member States shall only accept approvals granted under UN Regulation No 140.
3. With effect from 1 January 2019, for the purposes of EC type-approval of new types of vehicle with regard to their tyre pressure monitoring systems, Member States shall only accept approvals granted under UN Regulation No 141.

¹² 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, and amending Directive 2007/46/EC and repealing Directive 70/157/EEC (OJ L 158, 27.5.2014, p. 131).

¹³ OJ L 9, 13.1.2017, p. 33.

Article 4

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Commission
The President
Jean-Claude Juncker*