

Official Journal of the European Union

C 499



English edition

Information and Notices

Volume 64

10 December 2021

Contents

III *Preparatory acts*

COUNCIL

2021/C 499/01	Position (EU) No 37/2021 of the Council at First Reading with a view to the adoption of a Directive of the European Parliament and of the Council amending Directives 1999/62/EC, 1999/37/EC and (EU) 2019/520, as regards the charging of vehicles for the use of certain infrastructures Adopted by the Council on 9 November 2021	1
2021/C 499/02	Statement of the Council's reasons: Position (EU) No 37/2021 of the Council at first reading with a view to the adoption of a Directive of the European Parliament and of the Council amending Directives 1999/62/EC, 1999/37/EC and (EU) 2019/520, as regards the charging of vehicles for the use of certain infrastructures	42

EN

III

(Preparatory acts)

COUNCIL

POSITION (EU) No 37/2021 OF THE COUNCIL AT FIRST READING**with a view to the adoption of a Directive of the European Parliament and of the Council amending Directives 1999/62/EC, 1999/37/EC and (EU) 2019/520, as regards the charging of vehicles for the use of certain infrastructures****Adopted by the Council on 9 November 2021**

(2021/C 499/01)

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 91(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 Committee ⁽¹⁾,Having regard to the opinion of the Committee of the Regions ⁽²⁾,Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) Progress towards achieving the goal set by the Commission in its White Paper of 28 March 2011 entitled 'Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system', namely to move towards the full application of the 'polluter pays' and 'user pays' principles, to generate revenue and ensure financing for future transport investments, has been slow and inconsistencies persist in the application of road infrastructure charging across the Union.
- (2) In that White Paper, the Commission advocates proceeding 'to the full and mandatory internalisation of external costs (including noise, local pollution and congestion on top of the mandatory recovery of wear and tear costs) for road and rail transport'.
- (3) The movement of goods and passenger vehicles is a factor that contributes to the release of pollutants into the atmosphere. Such pollutants, which have a very serious impact on people's health and lead to the deterioration of ambient air quality in the Union, include PM_{2.5}, NO₂, and O₃. In 2018, prolonged exposure to those three pollutants caused 379 000, 54 000, and 19 400 premature deaths, respectively, in the Union, according to European Environment Agency estimates, produced in 2020.
- (4) According to the World Health Organization, noise from road traffic alone ranks second among the most harmful environmental stressors in Europe, exceeded only by air pollution. At least 9 000 premature deaths a year can be attributed to heart disease caused by traffic noise.
- (5) According to the European Environment Agency's 2020 report on air quality in Europe, road transport, in 2018, was the sector with the highest NO_x emissions and the second largest emitter of black carbon pollution.

⁽¹⁾ OJ C 81, 2.3.2018, p. 188.⁽²⁾ OJ C 176, 23.5.2018, p. 66.⁽³⁾ Position of the European Parliament of 25 October 2018 and position of the Council at first reading of 9 November 2021. Position of the European Parliament of ... (not yet published in the Official Journal).

- (6) In its communication of 20 July 2016 entitled 'A European Strategy for Low-Emission Mobility', the Commission announced that it would propose the amendment of Directive 1999/62/EC of the European Parliament and of the Council ⁽⁴⁾ to enable charging also on the basis of CO₂ differentiation, and the extension of some of its principles to buses and coaches as well as to passenger cars and light commercial vehicles.
- (7) Taking into account the vehicle fleet renewal time and the need for the road transport sector to contribute to the Union climate and energy targets for 2030 and beyond, Regulation (EU) 2019/1242 of the European Parliament and of the Council ⁽⁵⁾ set the CO₂ emission reduction targets for new heavy-duty vehicles for 2025 and 2030 at 15 % and respectively 30 % lower than an established average of CO₂ emissions.
- (8) To establish an internal market in road transport with a level playing field, rules should be applied uniformly. One of the main aims of this Directive is to eliminate distortions of competition between users.
- (9) Notwithstanding the importance of the road transport sector, all heavy-duty vehicles have a significant impact on road infrastructure and contribute to air pollution. In spite of their economic and social importance, light-duty vehicles are at the origin of the majority of the negative environmental and social impacts from road transport related to emissions and congestion. In the interest of equal treatment and fair competition, it should be ensured that vehicles so far not covered by the framework set out in Directive 1999/62/EC, in respect of tolls and user charges, are included in that framework. The scope of that Directive should therefore be extended to heavy-duty vehicles other than those intended for the carriage of goods and to light-duty vehicles, including passenger cars.
- (10) In order to prevent traffic from switching to toll-free roads, which may have a serious impact on road safety and the optimum use of the road network, Member States should be able to levy tolls on all sections of their network of motorways.
- (11) In order to ensure the consistent, harmonised application of the infrastructure charging system across the Union and a level playing field for the freight transport market, it is important that different tolling arrangements calculate costs in a similar way. Taking into account the fact that existing concession contracts may contain different arrangements than the ones set out in this Directive, Member States should, in order to ensure the financial viability of existing concession contracts, be allowed to exempt them from certain obligations set out in this Directive, until those contracts are substantially amended. Member States may equally opt to seek to bring existing concession contracts into line with changes to the Union or national regulatory framework or to assess the possibility of applying an external-cost charge for CO₂ and for air pollution and/or discounts related to those emissions, where concession tolls are not varied in accordance with this Directive.
- (12) Time-based user charges do not, by nature, accurately reflect the real costs of road use and, for similar reasons, are not effective when it comes to incentivising cleaner and more efficient operations, or reducing congestion. Nevertheless, in order to secure user acceptance of future road charging schemes, Member States should be allowed to introduce adequate systems for the collection of charges as part of a wider package of mobility services. Such systems should ensure a fair distribution of infrastructure costs and reflect the 'polluter pays' principle. Any Member States introducing such a system should ensure that it complies with the provisions of Directive (EU) 2019/520 of the European Parliament and of the Council ⁽⁶⁾. Due to the significant impact that they have on road infrastructure and their contribution to air pollution, the targeting of heavy-duty vehicles by accurate charging systems should be prioritised. In particular, in order to promote cleaner and more efficient transport operations, time-based user charges should, in principle, be gradually phased out on the core trans-European transport network, since that network contains the strategically most important nodes and links in the trans-European transport network.

⁽⁴⁾ Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures (OJ L 187, 20.7.1999, p. 42).

⁽⁵⁾ Regulation (EU) 2019/1242 of the European Parliament and of the Council of 20 June 2019 setting CO₂ emission performance standards for new heavy-duty vehicles and amending Regulations (EC) No 595/2009 and (EU) 2018/956 of the European Parliament and of the Council and Council Directive 96/53/EC (OJ L 198, 25.7.2019, p. 202).

⁽⁶⁾ Directive (EU) 2019/520 of the European Parliament and of the Council of 19 March 2019 on the interoperability of electronic road toll systems and facilitating cross-border exchange of information on the failure to pay road fees in the Union (OJ L 91, 29.3.2019, p. 45).

In light of the historical circumstances and taking into account the challenges and significant administrative burdens associated with introducing tolls, Member States should benefit from a sufficiently long transitional period during which they should be able to introduce or maintain time-based user charges. Following that transitional period, Member States should only have the possibility of applying wholly time-based user charges for heavy-duty vehicles on sections of their core trans-European transport network in duly justified cases. Such duly justified cases should be limited to cases where the application of a toll on heavy-duty vehicles would involve disproportionate administrative, investment and operating costs compared to the expected revenue or benefits generated, for example due to the limited length of the road sections concerned or the relatively low population density or the relatively low traffic, or where the application of a toll would lead to the diversion of traffic with negative impacts on road safety or on public health. That possibility for Member States in duly justified cases is necessary for key considerations of public interest, such as taking into account the difficult situation and isolation of areas having a low population density, road safety or public health. In addition, the application of time-based user charges in these duly justified cases should be subject to compliance with procedural requirements: an obligation to assess the need for such a system and an obligation to notify the Commission of its application. Such notification should include reasons detailing the specific circumstances related to the sections of the core trans-European transport network where time-based user charges are applied.

- (13) Member States that, at the entry into force of this Directive, apply tolls on their core trans-European transport network or on part of it should be able to establish a combined charging system for all heavy-duty vehicles or for some types of heavy-duty vehicles. However, that option should only be open as a continuation of and supplementary to a tolling system on the core trans-European transport network where the strategically most important nodes and links of the trans-European transport network are located, or on part of it. That system would allow the Member States to extend and broaden the implementation of the 'user pays' and 'polluter pays' principles beyond the tolled network, by applying user charges on those sections of the core trans-European transport network which are not covered by tolls or to some types of heavy-duty vehicles, such as those falling under a specific tonnage, that are not subject to tolls. The combined charging system would thus help Member States make further progress and ensure greener road transport, in particular where no charging system is in place and where tolls are not an economically viable or socially acceptable option. Additionally, in order to fully respect sustainable mobility principles, the maximum amount of those user charges should vary according to both the Euro emission class and the CO₂ emission class of the vehicle. Based on all those considerations, it is undeniable that the application of such system combining a time-based and a distance-based approach would entail many benefits; therefore, its application should be possible also after the end of the transitional period for wholly time-based systems. At the latest five years after the entry into force of this Directive, Member States should, when imposing road charges on heavy goods vehicles, impose tolls or user charges on all heavy goods vehicles.
- (14) When strengthening the user and polluter pays principles, certain characteristics of the Member States or their tolling and user charge systems should be taken into consideration. For example, in respect of particularly sparsely populated areas or a particularly large network of tolled or charged roads, the option of providing for exemptions of road sections should be available.
- (15) Some Member States have large toll networks that include many more motorways and roads than just the ones which are part of the trans-European transport network. Applying tolls or user charges to all heavy goods vehicles would therefore result in significantly more extensive burdens, especially for small and medium-sized craft businesses (many of which are involved in construction work, and which typically do not provide transport services). Those burdens would in turn lead to higher prices for example in the area of construction. Price increases could mean that future investments in particular, such as the energetic renovation of houses and apartments as well as the modernisation of house technology, are postponed or even cancelled. Also, craft businesses sometimes travel long distances with vehicles in order to provide their services, and those journeys cannot easily be carried out using other modes of transport. In addition, companies from rural regions, which due to the reduced population density and demand in those regions, are dependent on their ability to provide services and construction activities in metropolitan areas, find themselves in a competitive disadvantage compared to companies operating in large cities or on the outskirts of metropolitan areas. Therefore, Member States should be given the option to provide for certain charging exemptions, such as that on vehicles used for carrying materials, equipment or machinery for the driver's use in the course of the driver's work or used for the delivery of goods produced on a craft basis.

- (16) The possibility to use roads subject to road charging, such as motorways, tunnels or bridges, instead of challenging local roads can be important for persons with disabilities. In order to allow persons with disabilities to use roads subject to road charging without an additional administrative burden, Member States should be allowed to exempt vehicles of persons with disabilities from the obligation to pay a toll or user charge.
- (17) Member States should be encouraged to take into account socioeconomic factors when applying road infrastructure charging schemes for passenger cars. For example, charges for passenger cars could be adjusted so as to avoid excessive penalisation of frequent users.
- (18) It is of particular importance that the Member States establish a fair charging system, and in particular one which does not penalise users of private vehicles which, due to their place of residence in the countryside or in areas that are difficult to access or isolated, are forced to make more regular use of roads subject to charging.
- (19) As in the case of heavy-duty vehicles, it is important to ensure that, if Member States introduce any time-based charges applied to light-duty vehicles, they are proportionate, including in respect of periods of use shorter than one year. In that regard, account needs to be taken of the fact that light-duty vehicles have a use pattern that differs from the use pattern of heavy-duty vehicles. The calculation of proportionate time-based charges could be based on available data on trip patterns.
- (20) Pursuant to Directive 1999/62/EC, an external-cost charge may be imposed at a level close to the social marginal cost of the usage of the vehicle in question. That method has proven to be the fairest and most efficient way to take account of negative environmental and health impacts of air pollution and noise generated by heavy-duty vehicles, and would ensure that heavy-duty vehicles make a fair contribution to meeting air quality standards for Europe set out by Directive 2008/50/EC of the European Parliament and of the Council ⁽⁷⁾ and any applicable noise limits or targets. The application of such charges should therefore be facilitated. External-cost charging should be applied more systematically. To help the move towards the full application of the 'polluter pays' principle, Member States should apply external-cost charging to heavy-duty vehicles at least for air pollution, on networks covered by an infrastructure charge.
- (21) To that end, the maximum weighted average external-cost charges should be replaced by readily applicable reference values updated in light of inflation, the scientific progress made in estimating the external costs of road transport and the evolution of the fleet composition.
- (22) Varying the infrastructure charges according to the Euro emission class has contributed to the use of cleaner vehicles. However, with the renewal of vehicle fleets, the variation of charges on that basis on the inter-urban network is expected to become less effective in the medium-term. Member States should therefore be allowed to discontinue toll variation on that basis.
- (23) At the same time, since the share of CO₂ emissions from heavy-duty vehicles is increasing, a variation of infrastructure charges and user charges according to the CO₂ emission class, should be introduced that is capable of contributing to improvements in that area. In the case of common systems of user charges, which could contribute to further harmonisation, the implementation of the variation is more complex, notably because of the conditions to be fulfilled by such common systems. Since participating Member States have to agree on the distribution of the revenues accruing from the user charge, while its levels are limited by the provisions introduced by this Directive, as well as amend international agreements, allowing additional time for the implementation of the variation according to CO₂ emission is justified in such a specific case. In all cases, the variation should be designed in a way that is consistent with Regulation (EU) 2019/1242.
- (24) Until CO₂ emissions are addressed by more suitable instruments, such as harmonised fuel taxes including a carbon component or until road transport is covered by an emission trading system, Member States should also be allowed to apply an external-cost charge reflecting the cost of CO₂ emissions. Where justified by scientific evidence, Member States should have the possibility to apply higher external-cost charges for CO₂ emissions than the reference values set out in this Directive.
- (25) In order to promote the move towards a cleaner vehicle fleet of heavy-duty vehicles, the variation of the infrastructure and user charges according to their CO₂ emissions should be mandatory, except where an external-cost charge for CO₂ emissions is applied.

⁽⁷⁾ 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).

- (26) In order to reward the best performing heavy-duty vehicles, Member States should be allowed to apply the highest level of reductions in charges to vehicles operated without tailpipe emissions. To further promote the rollout of zero-emission vehicles, Member States should be allowed to temporarily exempt them from road charges. For the same reasons and to ensure that the share of vehicles benefitting from toll reduction remains stable throughout the years, guaranteeing long-term planning certainty for Member States in terms of toll revenue, new vehicles should be allocated to CO₂ emission classes based on their performance against the linear emission reduction trajectory between 2021 and 2030, as defined in Regulation (EU) 2019/1242.
- (27) In order to ensure the effectiveness and coherence of the variation of charges according to CO₂ emissions and of external-cost charging for CO₂ emissions, which are both meant to unlock the deployment of low- and zero-emission vehicles, as well as to ensure a coherent application of Directive 1999/62/EC with any other carbon-pricing instrument related to road transport that is adopted in the future, the Commission should evaluate their effectiveness and necessity in a timely manner. Based on that evaluation, the Commission should, where appropriate, propose the amendment of provisions on variation of charges according to CO₂ emissions and of external-cost charging for CO₂ emissions, in order to prevent double charging through different carbon-pricing instruments. While the future measure should ensure legal certainty and the coherent application of the different rules, this Directive should clarify that the Member States should not be obliged to apply the CO₂ variation system provided for in this Directive beyond the date of application of another carbon-pricing instrument applicable to road transport, that might be adopted at Union level, for example on the basis of the proposal for a Directive of the European Parliament and of the Council amending Directive 2003/87/EC, Decision (EU) 2015/1814 and Regulation (EU) 2015/757 [COM(2021) 551 final]. In the event that another carbon-pricing instrument applicable to road transport is adopted in the meantime, the level of external-cost charges for CO₂ emissions should be limited to what is necessary to internalise those external costs, and the Commission should be empowered to adjust, by means of delegated acts, the reference values set out in Annex IIIc.
- (28) To help safeguard the Union's automobile heritage, Member States should be able to place vehicles of historical interest in a special category for the purposes of adjusting the various charges payable under this Directive.
- (29) Currently, Regulation (EU) 2019/1242 does not define emission reduction trajectories for groups of heavy-duty vehicles not covered by Article 2(1), points (a) to (d), of that Regulation. In light of its Article 15, it is possible that that Regulation will be amended in the future and that emission reduction trajectories will be defined for such groups of vehicles. If such an amendment is adopted, the variation of infrastructure charges and user charges for heavy-duty vehicles according to CO₂ emission classes 2 and 3 should apply also to those groups of vehicles. If such an amendment is not adopted, the variation for those groups of vehicles should only be made for CO₂ emission classes 1, 4 and 5.
- (30) The Commission should consider proposing, where appropriate, an amendment to Directive 1999/62/EC introducing CO₂ emission classes 2 and 3 for all heavy-duty vehicles following the principles applied for heavy-duty vehicles currently regulated by Regulation (EU) 2019/1242 for their CO₂ emissions if the scope of that Regulation is extended to other heavy-duty vehicles.
- (31) This Directive should promote the reduction of CO₂ emissions through technical improvements of combinations of heavy goods motor vehicles and their trailers and semi-trailers. Therefore, this Directive provides for a reduction of road charges of heavy goods motor vehicles with low CO₂ emissions. For full regulatory consistency, once legally certified values for the effect of trailers and semi-trailers on the CO₂ emissions of heavy goods vehicle combinations are available, the Commission should, where appropriate, submit a legislative proposal to amend Directive 1999/62/EC to include such certified values when determining the reduction of road charges provided for by this Directive.
- (32) In order to continue to promote the renewal of the fleet and to avoid the distortion of the second-hand market of heavy-duty vehicles, the classification of vehicles belonging to CO₂ emission classes 2 and 3 should be reassessed every six years from their first registration. In order to minimise the administrative burden, the validity of user charges valid before the date of reclassification should not be affected.

- (33) As regards the entry into force of the reclassification in the user charge systems, the choice of an appropriate model depends on specific considerations concerning the administrative consequences of that reclassification and its effects on revenue. Therefore, the decision on how to implement the reclassification in the user charge systems should be left to the Member States (or, in the case of common systems, to the group of Member States concerned).
- (34) In order to ensure the coherent application of toll variation according to CO₂ emissions, it is necessary to amend Council Directive 1999/37/EC⁽⁸⁾ to require, where available on their certificate of conformity, that the specific CO₂ emissions of heavy-duty vehicles be indicated on their registration certificate. If Regulation (EU) 2019/1242 is amended in a way that affects the accounting of CO₂ emissions resulting from the use of low-carbon fuels, it might be appropriate for the Commission to assess the need to enhance coherence between this Directive and those amendments. It is important to ensure that on-board equipment used as part of a toll service contains the data relating to the CO₂ emissions and the CO₂ emission class of heavy-duty vehicles, and that such data are available for the exchange of information between Member States, as set out in Directive (EU) 2019/520.
- (35) Light-duty vehicles generate two thirds of the negative environmental and health impacts of road transport. It is therefore important to promote the use of the cleanest and most fuel-efficient vehicles through the differentiation of road charges according to their specific CO₂ emissions and their pollutant emissions determined in accordance with Commission Regulation (EU) 2017/1151⁽⁹⁾ and in relation to Regulation (EU) 2019/631 of the European Parliament and of the Council⁽¹⁰⁾. In order to promote the use of the cleanest and most efficient vehicles, Member States should be allowed to apply significantly reduced road tolls and user charges to such vehicles. Member States should be allowed to take into account the improvement of the environmental performance of the vehicle, which is linked to its conversion to alternative fuels. While doing so, Member States should be allowed to exclude fuels produced from high indirect land-use change (ILUC)-risk feedstock for which a significant expansion of the production area into land with high-carbon stock is observed. A standing subscription or any other mechanism approved by the toll system's operator should allow users to benefit from a variation in tolls or user charges corresponding to the improved environmental performance of the vehicle, after conversion.
- (36) In order not to penalise the development and use of zero-emission light-duty vehicles because of the additional weight related to the zero-emission technology, Member States should be allowed to apply reduced rates or exemptions in respect of such vehicles.
- (37) Road congestion, to which all motor vehicles contribute in different proportions, represents a cost of about 1 % of GDP. A significant part of that cost can be attributed to interurban congestion. A specific congestion charge should therefore be allowed, on condition that it is applied to both heavy and light vehicle categories. In view of their potential contribution to reducing congestion, Member States may exclude collective means of transport, namely minibuses, buses and coaches, from such a congestion charge. In order to be effective and proportionate, the charge should be calculated on the basis of the marginal congestion cost and differentiated according to location, time and vehicle category.
- (38) Road charges can mobilise resources that contribute to the financing of the maintenance and development of high quality transport infrastructure. It is therefore appropriate to require Member States to adequately report on the use of such revenues. That should in particular help to identify possible financing gaps, and increase public acceptance of road charging. In the interests of transparency, it would be appropriate for Member States to disclose to road users certain information on tolls and user charges levied on their territory, such as, information concerning the use of revenues generated by applying Directive 1999/62/EC, the variation of infrastructure charges, external-cost charges and the total revenue raised through congestion charges per category of vehicle.

⁽⁸⁾ Council Directive 1999/37/EC of 29 April 1999 on the registration documents for vehicles (OJ L 138, 1.6.1999, p. 57).

⁽⁹⁾ Commission Regulation (EU) 2017/1151 of 1 June 2017 supplementing Regulation (EC) No 715/2007 of the European Parliament and of the Council 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, amending Directive 2007/46/EC of the European Parliament and of the Council, Commission Regulation (EC) No 692/2008 and Commission Regulation (EU) No 1230/2012 and repealing Commission Regulation (EC) No 692/2008 (OJ L 175, 7.7.2017, p. 1).

⁽¹⁰⁾ Regulation (EU) 2019/631 of the European Parliament and of the Council of 17 April 2019 setting CO₂ emission performance standards for new passenger cars and new light commercial vehicles, and repealing Regulations (EC) No 443/2009 and (EU) No 510/2011 (OJ L 111, 25.4.2019, p. 13).

- (39) Congestion charges should reflect the actual costs imposed by each vehicle directly on other road users, and indirectly on society at large, in a proportionate manner. In order to prevent them from disproportionately hindering the free movement of people and goods, they should be limited to specific amounts reflecting marginal social costs of congestion in near capacity conditions, namely when traffic volumes approach road capacity. For the same reason, a congestion charge should not be applied in combination with an infrastructure charge that varies in accordance with the time of day, type of day or season for the purpose of reducing congestion. In order to maximise the positive effect of congestion charges, the revenues that they raise should be allocated to projects that address the sources of congestion.
- (40) Taking into account the fact that existing concession contracts may contain different arrangements than the ones set out in this Directive and in order to ensure their financial viability, it is appropriate to require existing concession contracts to comply with the requirement of varying the infrastructure charge only once they are substantially amended.
- (41) Mark-ups added to the infrastructure charge could also make a useful contribution to addressing problems related to significant environmental damage or congestion caused by the use of certain roads, not only within mountainous areas. The current restriction, which limits the use of mark-ups to such areas, should therefore be removed. In the case of two or more Member States levying higher mark-ups in the same corridor, it is necessary to take into account that those mark-ups might have negative effects on other Member States on the same corridor. In addition, in order to avoid double charging of users, mark-ups should be excluded on road sections on which a congestion charge is applied. To that end, in order to avoid adverse effects on the economic development of peripheral regions and to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission to reject or request amendment to the plans, submitted by the Member State, to add a mark-up to the infrastructure charge levied on specific road sections which are regularly congested, or of which the use by vehicles causes significant environmental damage. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹¹⁾.
- (42) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission to adopt implementing acts to specify the reference CO₂ emissions for the sub-groups of heavy-duty vehicles not covered by Article 2(1), points (a) to (d), of Regulation (EU) 2019/1242. The Commission should reproduce the data relevant for such vehicle groups published in the report referred to in Article 10 of Regulation (EU) 2018/956 of the European Parliament and of the Council ⁽¹²⁾. In light of the limited nature of the implementing powers conferred on the Commission, it is not necessary to provide for control by a committee composed of Member State representatives prior to their adoption.
- (43) Where a Member State introduces a system of road charging, compensations granted could in certain cases result in the discrimination of non-resident road users. The possibility of granting compensation should therefore be limited to the cases of tolls and should no longer be available in the case of user charges.
- (44) In order to exploit potential synergies among existing road charging systems, and to reduce operating costs, the Commission should be fully involved in the cooperation among Member States intending to introduce common road charging schemes.
- (45) It is necessary to allow Member States to finance the construction, operation, maintenance, and development of installations for energy or fuel to low- and zero-emission vehicles, with a view to facilitate road electrification. In particular, where a Member State intends to finance these electrical installations independent of the financing of road infrastructure, this Directive should not prevent that Member State from levying charges for the use of such installations.

⁽¹¹⁾ 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).

⁽¹²⁾ Regulation (EU) 2018/956 of the European Parliament and of the Council of 28 June 2018 on the monitoring and reporting of CO₂ emissions from and fuel consumption of new heavy-duty vehicles (OJ L 173, 9.7.2018, p. 1).

- (46) Since the objective of this Directive, namely to ensure that national charges of vehicles for the use of certain infrastructure are applied within a coherent framework that secures equal treatment across the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of the cross-border nature of road transport and of the problems this Directive is intended to address, 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 European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.
- (47) It is necessary to ensure that external-cost charges continue to reflect the cost of air pollution, noise and climate change generated by heavy-duty vehicles as accurately as possible without rendering the charging scheme excessively complex, in order to promote the use of the most fuel-efficient vehicles, and to keep the incentives effective and the differentiation of road charges up-to-date.
- (48) Therefore, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission to adapt the reference values for external-cost charging set out in Annexes IIIb and IIIc to Directive 1999/62/EC to scientific and technical progress. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁽¹³⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (49) Directives 1999/62/EC, 1999/37/EC and (EU) 2019/520 should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 1999/62/EC

Directive 1999/62/EC is amended as follows:

- (1) the title is replaced by the following

'Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of vehicles for the use of road infrastructures';

- (2) Articles 1 and 2 are replaced by the following:

'Article 1

1. This Directive applies to:

- (a) vehicle taxes imposed on heavy goods vehicles;
- (b) tolls and user charges imposed on vehicles.

2. This Directive shall not apply to vehicles used exclusively in the non-European territories of the Member States.

3. This Directive shall not apply to vehicles registered in the Canary Islands, Ceuta and Melilla, the Azores or Madeira carrying out transport operations exclusively in those territories or between those territories and, respectively, mainland Spain and mainland Portugal.

Article 2

1. For the purposes of this Directive:

- (1) "trans-European road network" means the road transport infrastructure referred to in Chapter II, Section 3, of Regulation (EU) No 1315/2013 of the European Parliament and of the Council (*), as illustrated by maps in Annex I to that Regulation;
- (2) "core trans-European transport network" means the transport infrastructure identified in accordance with Chapter III of Regulation (EU) No 1315/2013;

⁽¹³⁾ OJ L 123, 12.5.2016, p. 1.

- (3) “construction costs” means the costs related to construction, including, where appropriate, the financing costs, of any of the following:
- (a) new infrastructure or new infrastructure improvements, including significant structural repairs;
 - (b) infrastructure or infrastructure improvements, including significant structural repairs, completed no more than 30 years before 10 June 2008, where tolling arrangements were already in place on 10 June 2008, or completed no more than 30 years before the establishment of any new tolling arrangements introduced after 10 June 2008; or
 - (c) infrastructure or infrastructure improvements completed before the time limits referred to in point (b), where:
 - (i) a Member State has established a tolling system which provides for the recovery of these costs by means of a contract with a tolling system operator, or other legal acts having equivalent effect, which entered into force before 10 June 2008, or
 - (ii) a Member State can demonstrate that the case for building the infrastructure in question depended on its having a design lifetime in excess of 30 years;
- (4) “financing costs” means interest on borrowings and return on any equity funding contributed by shareholders;
- (5) “significant structural repairs” means structural repairs excluding those repairs no longer of any current benefit to road users, in particular where the repair work has been replaced by further road resurfacing or other construction work;
- (6) “motorway” means a road specially designed and built for motor traffic, which does not serve properties bordering on it, and which meets the following criteria:
- (a) it is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other either by a dividing strip not intended for traffic or, exceptionally, by other means;
 - (b) it does not cross at grade with any road, railway or tramway track, bicycle path or footpath; and
 - (c) it is specifically designated as a motorway;
- (7) “toll” means a specified amount payable in respect of a vehicle based on the distance travelled on a given infrastructure and on the type of the vehicle, the payment of which confers the right for that vehicle to use the infrastructures, and consisting of one or more of the following charges:
- (a) an infrastructure charge;
 - (b) a congestion charge; or
 - (c) an external-cost charge;
- (8) “infrastructure charge” means a charge levied for the purpose of recovering the construction, the maintenance, the operation and the development costs related to infrastructure incurred in a Member State;
- (9) “external-cost charge” means a charge levied for the purpose of recovering the costs related to one or more of the following:
- (a) traffic-based air pollution;
 - (b) traffic-based noise pollution; or
 - (c) traffic-based CO₂ emissions;
- (10) “cost of traffic-based air pollution” means the cost of the harm to human health and of the environmental damage caused by the release of particulate matter and of ozone precursors, such as NO_x and volatile organic compounds, in the course of the operation of a vehicle;
- (11) “cost of traffic-based noise pollution” means the cost of the harm to human health and of the environmental damage caused by the noise emitted by the vehicles or created by their interaction with the road surface;

- (12) “cost of traffic-based CO₂ emissions” means the cost of the damage caused by the release of CO₂ in the course of the operation of a vehicle;
- (13) “congestion” means a situation where traffic volumes approach or exceed road capacity;
- (14) “congestion charge” means a charge which is levied on vehicles for the purpose of recovering the congestion costs incurred in a Member State and of reducing congestion;
- (15) “weighted average infrastructure charge” means the total revenue from an infrastructure charge over a given period divided by the number of heavy-duty vehicle kilometres travelled on the road sections subject to that charge during that period;
- (16) “user charge” means a specified amount payment of which confers the right for a vehicle to use for a given period the infrastructures referred to in Article 7(1) and (2);
- (17) “vehicle” means a motor vehicle, with four or more wheels, or an articulated vehicle combination intended or used for the carriage by road of passengers or goods;
- (18) “heavy-duty vehicle” means a vehicle with a technically permissible maximum laden mass exceeding 3,5 tonnes;
- (19) “heavy goods vehicle” means a heavy-duty vehicle intended for the carriage of goods;
- (20) “coach” and “bus” mean a heavy-duty vehicle intended for the carriage of more than eight passengers in addition to the driver;
- (21) “light-duty vehicle” means a vehicle with a technically permissible maximum laden mass not exceeding 3,5 tonnes;
- (22) “passenger car” means a light-duty vehicle intended for the carriage of not more than eight passengers in addition to the driver;
- (23) “vehicle of historical interest” means a vehicle of historical interest as defined in Article 3, point 7, of Directive 2014/45/EU of the European Parliament and of the Council (**);
- (24) “minibus” means a light-duty vehicle intended for the carriage of more than eight passengers in addition to the driver;
- (25) “motor caravan” means a vehicle with living accommodation space which contains seats and a table, sleeping accommodation, whether separate or converted from the seating, cooking facilities and storage facilities;
- (26) “light commercial vehicle” means a light-duty vehicle intended for the carriage of goods;
- (27) “van” means a light-duty vehicle within the meaning of Part C, point 4.2, of Annex I to Regulation (EU) 2018/858 of the European Parliament and of the Council (***);
- (28) “CO₂ emissions” of a heavy-duty vehicle means its specific CO₂ emissions provided in point 2.3 of its Customer Information file as defined in Part II of Annex IV to Commission Regulation (EU) 2017/2400 (****);
- (29) “zero-emission vehicle” means:
 - (a) a “zero-emission heavy-duty vehicle” as defined in Article 3, point 11, of Regulation (EU) 2019/1242 of the European Parliament and of the Council (*****); or
 - (b) any passenger car, minibus or light commercial vehicle without an internal combustion engine;
- (30) “low-emission heavy-duty vehicle” means:
 - (a) a “low emission heavy-duty vehicle” as defined in Article 3, point 12 of Regulation (EU) 2019/1242; or
 - (b) a heavy-duty vehicle not covered by Article 2(1), points (a)-(d), of that Regulation, with CO₂ emissions lower than 50 % of the reference CO₂ emissions of its vehicle group, other than a zero-emission vehicle;
- (31) “transport operator” means any undertaking transporting goods or passengers by road;

- (32) “vehicle of the ‘Euro 0’, ‘Euro I’, ‘Euro II’, ‘Euro III’, ‘Euro IV’, ‘Euro V’, ‘EEV’, ‘Euro VI’ emission class” means a heavy-duty vehicle that complies with the emission limits set out in Annex 0;
- (33) “type of heavy-duty vehicle” means a category into which a heavy-duty vehicle falls according to the number of its axles, its dimensions or mass, or other vehicle classification factors reflecting road damage, such as the road damage classification system set out in Annex IV, provided that the classification system used is based on vehicle characteristics which appear in the vehicle documentation used in all Member States or which are visually apparent;
- (34) “vehicle sub-group” means “vehicle sub-group” as defined in Article 3, point 8, of Regulation (EU) 2019/1242;
- (35) “vehicle group” means a grouping of vehicles listed in Table 1 of Annex I to Regulation (EU) 2017/2400;
- (36) “reporting period of the year Y” means “reporting period of the year Y” as defined in Article 3, point 3, of Regulation (EU) 2019/1242;
- (37) “emission reduction trajectory”, for the reporting period of a year (Y) and vehicle sub-group (sg), namely $ET_{Y,sg}$, means the product of the annual CO₂ emissions reduction factor ($R-ET_Y$) times the reference CO₂ emissions (rCO_{2sg}) of the sub-group (sg), namely $ET_{Y,sg} = R-ET_Y \times rCO_{2sg}$; for years $Y \leq 2030$, $R-ET_Y$ and rCO_{2sg} are both determined in accordance with point 5.1 of Annex I to Regulation (EU) 2019/1242; for years $Y > 2030$, $R-ET_Y$ is 0,70; rCO_{2sg} applies as adjusted by delegated acts adopted in accordance with Article 11(2) of Regulation (EU) 2019/1242 for the reporting periods commencing after the respective dates of application of those delegated acts;
- (38) “reference CO₂ emissions of a vehicle group” means:
- (a) for vehicles covered by Regulation (EU) 2019/1242, the amount calculated in accordance with the formula in point 3 of Annex I to that Regulation;
 - (b) for vehicles not covered by Regulation (EU) 2019/1242, the average value of all CO₂ emissions of vehicles in that vehicle group, reported in accordance with Regulation (EU) 2018/956 of the European Parliament and of the Council (*****) for the first reporting period, which will start after the date on which the registration, sale or entry into service of vehicles in that vehicle group, that do not comply with the obligations referred to in Article 9 of Regulation (EU) 2017/2400, is prohibited in accordance with Article 24 of Regulation (EU) 2017/2400;
- (39) “concession contract” means a “works concession” or a “service concession” as defined in Article 5, point 1, (a) or (b), of Directive 2014/23/EU of the European Parliament and of the Council (****);
- (40) “concession toll” means a toll levied by a concessionaire under a concession contract;
- (41) “substantially amended tolling or charging arrangement” means a tolling or charging arrangement, where the amendment of rates is expected to increase revenues in excess of 10 % in comparison to the previous accounting year, excluding the effect of increase in traffic and after correcting for inflation measured by changes in the EU-wide Harmonised Index of Consumer Prices (HICP), and excluding energy and unprocessed food, as published by the Commission (Eurostat).
2. For the purposes of paragraph 1, point 2:
- (a) in any event, the proportion of the construction costs to be taken into account shall not exceed the proportion of the current design lifetime period of infrastructure components still to run on 10 June 2008 or on the date when the new tolling arrangements are introduced, where this is a later date;
 - (b) costs of infrastructure or infrastructure improvements may include any specific expenditure on infrastructure designed to reduce nuisance related to noise, to introduce innovative technologies or to improve road safety and actual payments made by the infrastructure operator corresponding to objective environmental elements such as protection against soil contamination.

3. Without prejudice to Article 7da(3), Member States may treat a motor caravan either as a coach or bus, or as a passenger car.

-
- (*) Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network (OJ L 348 20.12.2013, p. 1).
 - (**) Directive 2014/45/EU of the European Parliament and of the Council of 3 April 2014 on periodic roadworthiness tests for motor vehicles and their trailers and repealing Directive 2009/40/EC (OJ L 127, 29.4.2014, p. 51).
 - (***) 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).
 - (****) Commission Regulation (EU) 2017/2400 of 12 December 2017 implementing Regulation (EC) No 595/2009 of the European Parliament and of the Council as regards the determination of the CO₂ emissions and fuel consumption of heavy-duty vehicles and amending Directive 2007/46/EC of the European Parliament and of the Council and Commission Regulation (EU) No 582/2011 (OJ L 349, 29.12.2017, p. 1).
 - (*****) Regulation (EU) 2019/1242 of the European Parliament and of the Council of 20 June 2019 setting CO₂ emission performance standards for new heavy-duty vehicles and amending Regulations (EC) No 595/2009 and (EU) 2018/956 of the European Parliament and of the Council and Council Directive 96/53/EC (OJ L 198, 25.7.2019, p. 202).
 - (*****) Regulation (EU) 2018/956 of the European Parliament and of the Council of 28 June 2018 on the monitoring and reporting of CO₂ emissions from and fuel consumption of new heavy-duty vehicles (OJ L 173, 9.7.2018, p. 1).
 - (*****) Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).;

(3) Articles 7 and 7a are replaced by the following:

'Article 7

1. Without prejudice to Article 9(1a), Member States may maintain or introduce tolls and user charges on the trans-European road network or on certain sections of that network, and on any other additional sections of their network of motorways which are not part of the trans-European road network under the conditions laid down in paragraphs 4 to 14 of this Article and in Articles 7a to 7k.

2. Paragraph 1 shall be without prejudice to the right of Member States, in compliance with the TFEU, to apply tolls and user charges on other roads, provided that the imposition of tolls and user charges on such other roads does not discriminate against international traffic and does not result in the distortion of competition between operators. Tolls and user charges applied on roads other than roads belonging to the trans-European road network and other than motorways, shall comply with the conditions laid down in paragraphs 4 and 5 of this Article, in Article 7a and in Article 7j(1), (2) and (4).

3. Without prejudice to other provisions of this Directive, tolls and user charges for different categories of vehicles, such as heavy-duty vehicles, heavy goods vehicles, coaches and buses, light-duty vehicles, light commercial vehicles, minibuses and passenger cars, may be introduced or maintained independently from each other. However, where Member States charge passenger cars, they shall also charge light commercial vehicles.

4. Member States shall not impose both tolls and user charges on any given category of vehicle for the use of a single road section. However, a Member State which imposes a user charge on its network may also impose tolls for the use of bridges, tunnels and mountain passes.

Member States may decide not to apply Article 7ca(3), Article 7ga(1) and Article 7gb(2) to such tolls for the use of bridges, tunnels and mountain passes where one or both of the following conditions is met:

- (a) application of Article 7ca(3), Article 7ga(1) Article 7gb(2) would not be technically practicable to introduce such differentiation in the tolling system concerned;

- (b) application of Article 7ca(3), Article 7ga(1) and Article 7gb(2) would lead to diversion of the most polluting vehicles, with negative impacts on road safety and public health.

A Member State that decides not to apply Article 7ca(3), Article 7ga(1) and Article 7gb(2) in accordance with the second subparagraph of this paragraph shall notify the Commission of its decision.

5. Tolls and user charges shall not discriminate, directly or indirectly, on the grounds of:

- (a) the nationality of the road user;
- (b) the Member State or the third country of establishment of the transport operator;
- (c) the Member State or the third country of registration of the vehicle; or
- (d) the origin or destination of the transport operation.

6. Member States may provide for reduced tolls or user charges on certain road sections, or completely exclude certain road sections from road charges, in particular where traffic intensity is low in sparsely populated areas.

7. In the case of road infrastructures covered by concession contracts, where the contract was signed before ... *[the date of entry into force of this amending Directive]* or the tenders or responses to invitations to negotiate under the negotiated procedure were received pursuant to a public procurement process before ... *[the date of entry into force of this amending Directive]*, Member States may choose not to apply Article 7ca(3), Article 7g(1) and (2), Article 7ga and Article 7gb to tolls and user charges on those infrastructures until the concession contract is renewed or the tolling or charging arrangement is substantially amended.

8. Paragraph 7 applies also to long-term contracts, concluded between a public and non-public entity, signed before ... *[the date of entry into force of this amending Directive]* for the execution of works and/or the management of services other than the execution of works not including the transfer of the demand risk.

9. Member States may provide for reduced tolls or user charges, or exemptions from the obligation to pay tolls or user charges for:

- (a) heavy-duty vehicles exempted from the requirement to install and use recording equipment under Regulation (EU) No 165/2014 of the European Parliament and of the Council (*);
- (b) heavy goods vehicles with a technically permissible maximum laden mass exceeding 3,5 tonnes and less than 7,5 tonnes used for carrying materials, equipment or machinery for the driver's use in the course of the driver's work, or for delivering goods which are produced on a craft basis, where the transport is not effected for hire or reward;
- (c) any vehicle covered by the conditions set out in Article 6(2), points (a) and (b), or any vehicle used or owned by persons with disabilities; and
- (d) zero-emission vehicles with a technically permissible maximum laden mass up to 4,25 tonnes.

10. From ... *[8 years after the date of entry into force of this amending Directive]*, Member States shall not apply user charges for heavy-duty vehicles on the core trans-European transport network.

11. By way of derogation from paragraph 10, Member States may apply user charges for heavy-duty vehicles on sections of the core trans-European transport network but only in duly justified cases where applying a toll would:

- (a) involve disproportionate administrative, investment and operating costs compared to the expected revenue or benefits, which such a toll would generate, for example due to the limited length of the road sections concerned or the relatively low population density or the relatively low traffic; or
- (b) lead to the diversion of traffic with negative impacts on road safety or on public health.

Before applying those user charges, Member States shall notify the Commission of their intention to do so. That notification shall include the reasons justifying, in light of the first subparagraph, the application of the user charge based on objective criteria and clear information on the vehicles and road sections covered by the user charge.

Member States may submit one single notification for more road sections covered by the exemptions, provided that the justification is included for each section.

12. Where Member States apply a common system for user charges in accordance with Article 8, those Member States shall adapt or discontinue the common system by ... [10 years after the date of entry into force of this amending Directive].

13. Until ... [5 years after the date of entry into force of this amending Directive], as regards heavy goods vehicles, a Member State may choose to apply tolls or user charges only to heavy goods vehicles with a technically permissible maximum laden mass of not less than 12 tonnes where it considers that levying tolls or user charges to heavy goods vehicles of less than 12 tonnes would:

- (a) create significant adverse effects on the free flow of traffic, the environment, noise levels, congestion, health, or road safety, due to traffic diversion;
- (b) involve administrative costs of more than 15 % of the additional revenue resulting from that extension; or
- (c) concern a category of vehicles which does not cause more than 10 % of the chargeable infrastructure costs.

Member States choosing to apply tolls or user charges or both only to heavy goods vehicles with a technically permissible maximum laden mass of not less than 12 tonnes shall inform the Commission of their decision together with the reasons upon which it is based.

14. Where tolls are applied to all heavy-duty vehicles, Member States may choose to recover a different percentage of costs from coaches and buses and motor caravans, on the one hand, and from heavy goods vehicles, on the other hand.

15. By ... [date five years after the date of entry into force of this amending Directive], the Commission shall assess the implementation and effectiveness of this Directive with regard to the charging of light-duty vehicles.

That assessment shall take into account the evolution of charging systems applied to light-duty vehicles in terms of the type of charging applied to various vehicle categories, the extent of the network covered, the proportionality of pricing and other relevant elements.

Based on that assessment, the Commission shall, where appropriate, submit a legislative proposal to amend the relevant provisions of this Directive.

(*) Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport (OJ L 60, 28.2.2014, p. 1).

Article 7a

1. User charges shall be proportionate to the duration of the use made of the infrastructure.

2. If user charges are applied in respect of heavy-duty vehicles, the use of the infrastructure shall be made available for at least the following periods: a day, a week, a month, and a year. The monthly rate shall not exceed 10 % of the annual rate, the weekly rate shall not exceed 5 % of the annual rate and the daily rate shall not exceed 2 % of the annual rate.

A Member State may decide that for vehicles registered in that Member State only annual rates shall apply.

Member States shall set user charges, including administrative costs, for all heavy-duty vehicles, at a level that does not exceed the maximum rates laid down in Annex II.

3. If user charges are applied in respect of passenger cars, the use of the infrastructure shall be made available at least for the following periods: a day, a week or 10 days or both, a month or two months or both, and a year. The two-monthly rate shall not exceed 30 % of the annual rate, the monthly rate shall not exceed 19 % of the annual rate, the 10-day rate shall not exceed 12 % of the annual rate, the weekly rate shall not exceed 11 % of the annual rate and the daily rate shall not exceed 9 % of the annual rate.

Member States may limit the daily user charge for transit purposes only.

Member States may also make the use of the infrastructure available for other periods of time. In such cases, Member States shall apply rates in accordance with the principle of equal treatment between users, taking into account all relevant factors, in particular the annual rate and the rates applied for the other periods referred to in the first subparagraph, existing use patterns and administrative costs.

In respect of user charge schemes adopted before ... [*the date of entry into force of this amending Directive*], Member States may maintain rates above the limits set out in the first subparagraph, provided that they were in force before that date, and may maintain corresponding higher rates for other periods of use, in compliance with the principle of equal treatment. However, they shall comply with the limits set out in the first subparagraph as well as with the second subparagraph as soon as substantially amended charging arrangements enter into force and, at the latest, by ... [*8 years after the date of entry into force of this amending Directive*].

4. For minibuses and light commercial vehicles, Member States shall comply with either paragraph 2 or 3. Where Member States set different user charges for light commercial vehicles than for passenger cars, they shall set higher user charge rates for light commercial vehicles than for passenger cars.

5. By ... [*5 years after the date of entry into force of this amending Directive*], the Commission shall assess the technical and legal feasibility of differentiating the treatment of different light commercial vehicles based on whether or not the light commercial vehicle concerned is equipped with a tachograph. Based on that assessment, the Commission shall, where appropriate, submit a legislative proposal to amend this Directive accordingly.'

(4) the following Article is inserted:

'Article 7aa

1. Member States that applied tolls on their core trans-European transport network or on part of it, before ... [*the date of entry into force of this amending Directive*], may establish a combined charging system for all heavy-duty vehicles or for some types of heavy-duty vehicles.

2. In that combined charging system, Member States may, notwithstanding Article 7(10), apply user charges for all heavy-duty vehicles or for some types of heavy-duty vehicles including for some weight categories of heavy-duty vehicles on the core trans-European transport network or parts of it, in accordance with Article 7(4).

3. The user charges referred to in paragraph 2 of this Article shall be varied in accordance with Article 7ga and according to the Euro emission class. In addition, Member States shall set user charges, including administrative costs, for the heavy-duty vehicles concerned, at a level that does not exceed the maximum rates laid down in Annex II.

4. Member States establishing the combined charging scheme shall carry out an impact assessment or analysis explaining and justifying its introduction which shall be notified to the Commission at least six months before its introduction.'

(5) Articles 7b and 7c are replaced by the following:

'Article 7b

1. The infrastructure charge for heavy-duty vehicles shall be based on the principle of the recovery of infrastructure costs. The weighted average infrastructure charge for heavy-duty vehicles shall be related to the construction costs and the costs of operating, maintaining and developing the infrastructure network concerned. The weighted average infrastructure charge may also include a return on capital and/or a profit margin based on market conditions.

2. The costs taken into account shall relate to the network or the part of the network on which infrastructure charges for heavy-duty vehicles are levied and to the vehicles that are subject to those charges. Member States may choose to recover only a percentage of those costs.

Article 7c

1. Member States may maintain or introduce an external-cost charge, related to the cost of traffic-based air pollution, noise pollution, CO₂ emissions or any combination thereof.

Where an external-cost charge is applied for heavy-duty vehicles, Member States shall vary it and set it in accordance with the minimum requirements and the methods referred to in Annex IIIa and shall respect the reference values set out in Annexes IIIb and IIIc. Member States may choose to recover only a percentage of those costs.

2. The amount of the external-cost charge shall be set by the Member State concerned. If a Member State designates an authority for that purpose, that authority shall be legally and financially independent from the organisation in charge of managing or collecting part or all of the charge.

3. Member States may apply exemptions which allow external-cost charges to be adjusted for vehicles of historical interest.;

(6) the following Articles are inserted:

'Article 7ca

1. When levying an external-cost charge for air or noise pollution, Member States shall take into account the costs relating to the network or the part of the network on which that charge is levied and the vehicles that are subject to that charge.

2. The external-cost charge related to traffic-based air pollution shall not apply to heavy-duty vehicles which comply with the most stringent of Euro emission standards.

The first subparagraph shall cease to apply four years after the date when the rules which introduced those standards started to apply.

3. From ... [4 years after the date of entry into force of this amending Directive], Member States shall apply an external-cost charge for traffic-based air pollution to heavy-duty vehicles on the tolled network referred to in Article 7(1).

By way of derogation from the first subparagraph, Member States may decide not to apply an external-cost charge on those road sections where this would lead to the diversion of the most polluting vehicles, resulting in negative impacts on road safety and public health.

4. Member States may assess the possibility of applying an external-cost charge for CO₂ emissions and for air pollution or discounts, related to those emissions, where concession tolls are not varied in accordance with Articles 7g and 7ga for heavy-duty vehicles, and in accordance with Article 7gb for light-duty vehicles.

The result of that optional assessment, including a justification of the reason why the external-cost charge or discount is not applied, shall be notified to the Commission.

Article 7cb

1. Member States may apply higher external-cost charges for CO₂ emissions than the reference values set out in Annex IIIc, provided that this is done in a non-discriminatory manner, and limited to no more than twice the values set out in Annex IIIc. Where Member States apply this paragraph they shall justify their decision and notify it to the Commission, in accordance with Annex IIIa.

2. For buses and coaches, Member States may choose to apply the same or lower values than those applied to heavy goods vehicles.

3. An external-cost charge for CO₂ emissions may be combined with an infrastructure charge that has been varied in accordance with Article 7ga.

4. By ... [5 years after the entry into force of this amending Directive], the Commission shall assess the implementation and effectiveness of external-cost charging for CO₂ emissions, as well as its coherence with Directive 2003/87/EC of the European Parliament and of the Council (*) and Council Directive 2003/96/EC (**). Based on that assessment, the Commission shall, where appropriate, submit a legislative proposal to amend this Article. In the event that this Article has not been amended accordingly by 1 January 2027 but Directive 2003/87/EC or Directive 2003/96/EC has been amended in a manner resulting in an effective internalisation of at least part of the external costs of CO₂ emissions from road transport, the Commission shall adopt delegated acts in accordance with Article 9d of this Directive, amending Annex IIIc to this Directive to adjust the reference values of the external-cost charge for CO₂ emissions, taking into account the effective carbon price applied to road transport fuels in the Union.

(*) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

(**) Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).;

- (7) Article 7d is replaced by the following:

'Article 7d

No later than six months after the adoption of new and more stringent Euro emission standards, the Commission shall, where appropriate, submit a legislative proposal in order to determine the corresponding reference values in Annex IIIb and to adjust the maximum rates of user charges in Annex II.;

- (8) the following Article is inserted:

'Article 7da

1. Member States may, in accordance with the requirements set out in Annex V, introduce a congestion charge on any section of their road network which is affected by congestion. The congestion charge may only be applied on those road sections which are regularly congested and only during the periods when they are typically congested.

2. Member States shall specify the road sections and time periods referred to in paragraph 1 based on objective criteria related to the level to which the roads and their vicinities are affected by congestion, measured inter alia in terms of average delays or queue lengths.

3. A congestion charge imposed on any section of the road network shall apply in a non-discriminatory manner to all vehicle categories, in accordance with the standard equivalence factors set out in Annex V. Member States may, however, exempt, partially or fully, minibuses, buses and coaches from congestion charge for the promotion of collective transport and socio-economic development and territorial cohesion. Motor caravans, irrespective of their technically permissible maximum laden mass, shall not be treated as coaches and buses for the purpose of this paragraph.

4. The congestion charge shall be set in accordance with the minimum requirements referred to in Annex V. It shall reflect the costs imposed by a vehicle on other road users, and indirectly on society, and shall respect the reference values set out in Annex VI for any given road type. Where a Member State intends to apply congestion charges higher than the reference values set out in Annex VI, it shall notify the Commission in accordance with the requirements referred to in Annex V.

Revenues generated from congestion charges, or the equivalent in financial value of those revenues, shall be used to address the problem of congestion, or to develop sustainable transport and mobility in general.

Where such revenues are allocated to the general budget, a Member State shall be deemed to have applied the second subparagraph, if it implements financial support policies to address the problem of congestion or to develop sustainable transport and mobility which have a value equivalent to the revenues generated from congestion charges.

5. Member States shall put in place adequate mechanisms for monitoring the impact of congestion charges and for reviewing the level thereof. Each Member State shall review the level of charges regularly, at least every three years, to ensure that they do not exceed the costs of the congestion occurring in that Member State on the road sections subject to the congestion charge.;

(9) in Article 7e, paragraphs 1 and 2 are replaced by the following:

‘1. Member States shall calculate the maximum level of infrastructure charge for heavy-duty vehicles using a methodology based on the core calculation principles set out in Article 7b and Annex III.

2. For concession tolls, the maximum level of the infrastructure charge for heavy-duty vehicles shall be equivalent to, or less than, the level that would have resulted from the use of a methodology based on the core calculation principles set out in Article 7b and Annex III. The assessment of such equivalence shall be made on the basis of a reasonably long reference period appropriate to the nature of the concession contract.’;

(10) Articles 7f and 7g are replaced by the following:

‘Article 7f

1. After informing the Commission, a Member State may add a mark-up to the infrastructure charge levied on specific road sections which are regularly congested, or the use of which by vehicles causes significant environmental damage, where the following conditions are met:

- (a) the revenue generated from the mark-up is invested in financing the development of transport services, or in the construction or maintenance of transport infrastructure of the core trans-European transport network which contribute directly to the alleviation of the congestion or environmental damage and which are located in the same corridor as the road section on which the mark-up is applied;
- (b) the mark-up does not exceed 15 % of the weighted average infrastructure charge calculated in accordance with Article 7b(1) and Article 7e of this Directive, except where the revenue generated is invested in cross-border sections of a core network corridor identified in accordance with Chapter IV of Regulation (EU) No 1315/2013, in which case the mark-up may not exceed 25 % of that weighted average infrastructure charge, or, where two or more Member States apply a mark-up in the same corridor, in which case, upon agreement of all Member States which are part of that corridor and which neighbour the Member States in the territory of which the section of the corridor to which a mark-up is to be applied falls, that mark-up may exceed 25 % but may not exceed 50 % of that weighted average infrastructure charge;
- (c) the application of the mark-up does not result in unfair treatment of commercial traffic compared to other road users;
- (d) a description of the exact location of the mark-up and proof of a decision to finance transport infrastructure or transport services referred to in point (a) are submitted to the Commission in advance of the application of the mark-up;
- (e) the period for which the mark-up is to apply is defined and limited in advance and is consistent, in terms of the expected revenue to be raised, with the financial plans and cost-benefit analysis for the projects co-financed with the revenue from the mark-up.

2. In the case of a new cross-border project, a mark-up may only be added if all Member States involved in the project agree.

3. A mark-up may be applied to an infrastructure charge which has been varied in accordance with Article 7g, 7ga or 7gb.

4. After receiving the required information from a Member State intending to apply a mark-up, the Commission shall make that information available to the members of the Committee referred to in Article 9c. Where the Commission considers that the planned mark-up does not meet the conditions set out in paragraph 1 of this Article, or where it considers that the planned mark-up will have significant adverse effects on the economic development of peripheral regions, it may adopt implementing acts, to reject or request amendment of the plans for charges submitted by the Member State concerned. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 9c(3).

5. A mark-up may not be applied on road sections on which a congestion charge is levied.

Article 7g

1. The infrastructure charge may be varied for the purpose of reducing congestion, minimising infrastructure damage and optimising the use of the infrastructure concerned or promoting road safety, where the following conditions are met:

- (a) the variation is transparent, made public and available to all users on equal terms;
- (b) the variation is applied according to the time of day, type of day or season;
- (c) no infrastructure charge is more than 175 % above the maximum level of the weighted average infrastructure charge as referred to in Article 7b;
- (d) the peak periods during which the higher infrastructure charges are levied for the purpose of reducing congestion do not exceed six hours per day;
- (e) the variation is devised and applied in a transparent and revenue-neutral way on a road section affected by congestion by offering reduced toll rates for road users who travel during off-peak periods and increased toll rates for road users who travel during peak hours on the same road section;
- (f) no congestion charge is levied on the road section concerned.

A Member State wishing to introduce such variation or changing an existing one shall inform the Commission thereof and provide it with the information necessary to assess whether the conditions are fulfilled.

2. Until the variation of infrastructure charges and user charges referred to in Article 7ga is applied, in respect of heavy-duty vehicles, Member States shall vary the infrastructure charge according to the Euro emission class of the vehicle in such a way that no infrastructure charge is more than 100% above the same charge for equivalent vehicles meeting the strictest Euro emission standards. Once infrastructure charges and user charges are varied pursuant to Article 7ga, Member States may discontinue the variation according to the Euro emission class.

By way of derogation from the first subparagraph, a Member State may decide not to apply the requirement of varying the infrastructure charge where any of the following applies:

- (a) it would seriously undermine the coherence of the tolling systems in its territory;
- (b) it would not be technically practicable to introduce such differentiation in the tolling system concerned;
- (c) it would lead to diversion of the most polluting vehicles with negative impacts on road safety and public health;
- (d) the toll includes an external-cost charge for air pollution.

Any such derogations or exemptions shall be notified to the Commission.

3. The variations referred to in this Article shall not be designed to generate additional revenues.;

(11) the following Articles are inserted:

‘Article 7ga

1. Member States shall vary infrastructure charges and user charges for heavy-duty vehicles in accordance with this Article.

Member States shall apply that variation to the sub-groups of heavy-duty vehicles covered by Article 2(1), points (a) to (d), of Regulation (EU) 2019/1242, at the latest two years after the publication of the reference CO₂ emissions for those vehicle sub-groups in the implementing acts adopted in accordance with Article 11(1) of that Regulation.

For CO₂ emission classes 1, 4 and 5, referred to in paragraph 2 of this Article, that variation shall apply to the groups of heavy-duty vehicles not covered by Article 2(1), points (a) to (d), of Regulation (EU) 2019/1242, at the latest two years following the publication of the reference CO₂ emissions in implementing acts adopted pursuant to paragraph 7 of this Article, for the relevant group. Where point 5.1 of Annex I to Regulation (EU) 2019/1242 is amended by a Union legislative act in such a way as to cover the reference CO₂ emissions relevant for a group of heavy-duty vehicles, such reference CO₂ emissions shall no longer be determined pursuant to paragraph 7 of this Article but in accordance with point 5.1 of Annex I to that Regulation.

Where emission reduction trajectories for groups of heavy-duty vehicles not covered by Article 2(1), points (a) to (d), of Regulation (EU) 2019/1242, are determined by a Union legislative act amending point 5.1 of Annex I to that Regulation, the variations for CO₂ emission classes 2 and 3, as defined in paragraph 2 of this Article shall apply from the date of entry into force of the new emission reduction trajectories.

Without prejudice to the reduction of rates provided for in paragraph 3, Member States may provide for reduced rates of infrastructure or user charges, or exemptions to pay infrastructure or user charges for zero emission vehicles of any vehicle group from ... [the date of entry into force of this amending Directive] until 31 December 2025. From 1 January 2026, such reductions shall be limited to 75 % compared to the charge applicable to CO₂ emission class 1, as defined in paragraph 2.

2. Without prejudice to paragraph 1, Member States shall establish for each type of heavy-duty vehicle the following CO₂ emission classes:

- (a) CO₂ emission class 1 – vehicles that do not belong to any of the CO₂ emission classes referred to under points (b) to (e);
- (b) CO₂ emission class 2 – vehicles of the vehicle sub-group sg registered for the first time in the reporting period of the year Y with CO₂ emissions more than 5 % below the emission reduction trajectory for the reporting period of the year Y and the vehicle sub-group sg but not belonging to any of the CO₂ emission classes referred to under points (c), (d) and (e);
- (c) CO₂ emission class 3 – vehicles of the vehicle sub-group sg registered for the first time in the reporting period of the year Y with CO₂ emissions more than 8 % below the emission reduction trajectory for the reporting period of the year Y and the vehicle sub-group sg not belonging to any of the CO₂ emission classes referred to under points (d) and (e);
- (d) CO₂ emission class 4 – low-emission heavy-duty vehicles;
- (e) CO₂ emission class 5 – zero-emission vehicles.

Member States shall ensure that the classification of a vehicle belonging to CO₂ emission class 2 or 3 is reassessed every six years after the date of its first registration and that, where relevant, the vehicle is reclassified in the relevant emission class on the basis of the thresholds applicable at that time. Reclassification shall, with regard to a user charge, take effect at the latest on its first day of validity on or after the day of that reclassification.

3. Without prejudice to paragraph 1, reduced charges shall apply to vehicles in CO₂ emission classes 2, 3, and 4 and 5, as follows:

- (a) CO₂ emission class 2 – 5 % to 15 % reduction compared to the charge applicable for CO₂ emission class 1;
- (b) CO₂ emission class 3 – 15 % to 30 % reduction compared to the charge applicable for CO₂ emission class 1;
- (c) CO₂ emission class 4 – 30 % to 50 % reduction compared to the charge applicable for CO₂ emission class 1;
- (d) CO₂ emission class 5 – 50 % to 75 % reduction compared to the charge applicable for CO₂ emission class 1.

Where the infrastructure charge or the user charge is also varied according to the Euro emission class, the reductions referred to in the first subparagraph shall apply as compared to the charge applied to the strictest Euro emission standards.

4. The variations referred to in this Article shall not be designed to generate additional revenues.
5. By way of derogation from paragraph 1, a Member State may decide not to apply the requirement of varying the infrastructure charge in accordance with paragraph 2 where an external-cost charge for CO₂ emissions is levied and varied according to the reference values of the external-cost charge for CO₂ emissions in Annex IIIc.
6. On road sections where a vehicle is operated without CO₂ emissions in a verifiable manner, Member States may apply to that vehicle reduced charges in accordance with CO₂ emission class 5. Member States that make use of that option shall apply the charges applicable to CO₂ emission class 1 to that vehicle on other road sections.
7. The Commission shall adopt implementing acts to specify the reference CO₂ emissions for the vehicle groups not covered by Article 2(1), points (a) to (d), of Regulation (EU) 2019/1242.

Those implementing acts shall reproduce the data relevant for each vehicle groups published in the report referred to in Article 10 of Regulation (EU) 2018/956. The Commission shall adopt those implementing acts at the latest six months after the publication of the relevant report referred to in Article 10 of Regulation (EU) 2018/956.

8. By ... *[5 years after the date of entry into force of this amending Directive]*, the Commission shall assess the implementation and effectiveness of the variation of charges based on CO₂ emissions referred to in this Article, as well as whether it is still necessary and its coherence with Directives 2003/87/EC and 2003/96/EC. Based on that assessment, the Commission shall, where appropriate, submit a legislative proposal to amend the relevant provisions of this Directive on the variation of charges on the basis of CO₂ emissions.
9. The Commission shall, every five years, after ... *[the date of entry into force of this amending Directive]*, review the maximum rates for the user charges in Annex II and the reduction levels referred to in paragraph 3, and, where appropriate, submit a legislative proposal, based on the results of that review process, to amend those provisions.
10. Every 30 months after ... *[the date of entry into force of this amending Directive]*, the Commission shall draw up a report assessing the appropriateness of the thresholds for CO₂ emission classes 2 and 3 referred to in Article 7ga(2), points (b) and (c), of this Directive in relation to the reference emissions published in accordance with Article 11(1) of Regulation (EU) 2019/1242 or to the CO₂ emissions reported in accordance with Regulation (EU) 2018/956, and where appropriate submit a legislative proposal to amend those thresholds based on the results of that assessment.
11. The application of the variation of charges based on CO₂ emissions referred to in this Article shall not be mandatory where another Union road transport fuel carbon-pricing measure applies.

Article 7gb

1. Member States may differentiate tolls and user charges for light-duty vehicles according to the environmental performance of the vehicle determined by the specific CO₂ emissions combined, or weighted combined, recorded in entry 49 of the certificate of conformity of the vehicle, and by the Euro emission performance.

Without prejudice to paragraph 2 of this Article, lower rates of tolls and user charges shall apply for passenger cars, minibuses and light commercial vehicles that meet both of the following conditions:

- (a) their specific CO₂ emissions, determined in accordance with Commission Regulation (EU) 2017/1151 (*), shall be zero or shall be below the following levels:
 - (i) for the period 2021 to 2024, the EU fleet-wide targets₂₀₂₁ determined in accordance with Part A, point 6, and Part B, point 6, of Annex I to Regulation (EU) 2019/631 of the European Parliament and of the Council (**);
 - (ii) for the period 2025 to 2029, the EU fleet-wide targets determined in accordance with Part A, point 6.1.1, and Part B, point 6.1.1, of Annex I to Regulation (EU) 2019/631;
 - (iii) for the period 2030 onwards, the EU fleet-wide targets determined in accordance with Part A, point 6.1.2, and Part B, point 6.1.2, of Annex I to Regulation (EU) 2019/631;

(b) their pollutant emissions, determined in accordance with Regulation (EU) 2017/1151, shall be as specified in the Table of Annex VII to this Directive. Member States may apply the reduction for zero-emission vehicles referred to in Annex VII to this Directive without applying reductions for the other emissions performance categories referred to in that Annex.

2. From 1 January 2026, where technically practicable, Member States shall vary the tolls and the annual rate of the user charges for vans and minibuses according to the environmental performance of the vehicle, in accordance with the rules set out in Annex VII. For that purpose, the provisions of the second subparagraph of paragraph 1 shall be indicative.

Where Member States choose to apply different emission performance criteria or levels of reduction to those set out in paragraph 1, or choose to include different or additional criteria, they shall notify the Commission of their choices and justify them, at least six months before the introduction of any variation.

However, Member States may choose to apply reductions to zero-emission vehicles only, without applying any variation to other vehicles and without notifying the Commission.

3. Subject to the conditions set out in paragraphs 1 and 2, Member States may take into account an improvement in the environmental performance of the vehicle which is linked to that vehicle's conversion to alternative fuels.

4. Member States may adopt exceptional measures for the purpose of charging vehicles of historical interest.

5. The variations referred to in this Article shall not be designed to generate additional revenues.

(*) Commission Regulation (EU) 2017/1151 of 1 June 2017 supplementing Regulation (EC) No 715/2007 of the European Parliament and of the Council 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, amending Directive 2007/46/EC of the European Parliament and of the Council, Commission Regulation (EC) No 692/2008 and Commission Regulation (EU) No 1230/2012 and repealing Commission Regulation (EC) No 692/2008 (OJ L 175, 7.7.2017, p. 1).

(**) Regulation (EU) 2019/631 of the European Parliament and of the Council of 17 April 2019 setting CO₂ emission performance standards for new passenger cars and new light commercial vehicles, and repealing Regulations (EC) No 443/2009 and (EU) No 510/2011 (OJ L 111, 25.4.2019, p. 13).;

(12) Article 7h is amended as follows:

(a) paragraph 1 is amended as follows:

(i) the introductory wording is replaced by the following:

‘1. At least six months before the implementation of a new or substantially amended infrastructure charge tolling arrangement, Member States shall send to the Commission:’;

(ii) in point (a), the following indent is added:

‘— where applicable, clear information on the main characteristics of the electronic road toll system, including on interoperability;’;

(b) the following paragraph is inserted:

‘1a. When sending information to the Commission in accordance with paragraph 1, a Member State may include information on more than one amendment to an infrastructure charge tolling arrangement. Where the Commission has already been informed of an amendment, the Member State shall be deemed to have already fulfilled the information requirements of paragraph 1 and that amendment may be implemented without informing the Commission further.’;

(c) paragraph 3 is replaced by the following:

‘3. Before the implementation of a new or substantially amended external-cost charge or congestion charge tolling arrangement, Member States shall inform the Commission about the network concerned, the rates per vehicle category and emission class that are envisaged and, where applicable, shall notify the Commission in accordance with Annex IIIa, point 2, or Annex V, point 2.’;

(d) paragraph 4 is deleted;

(13) Article 7i is amended as follows:

(a) in paragraph 2, points (b) and (c) are replaced by the following:

‘(b) such discounts or reductions reflect actual savings in administrative costs of the treatment of frequent users compared to occasional users;

(c) reductions do not exceed 13 % of the infrastructure charge paid by equivalent vehicles not eligible for the discount or reduction.’;

(b) the following paragraph is inserted:

‘2a. Member States may provide for discounts or reductions in the infrastructure charge for passenger cars for frequent users, in particular in areas in which settlement is dispersed and on the outskirts of cities. Reduction in revenues due to discount granted to frequent users shall not be imposed on less frequent users.’;

(c) paragraph 3 is replaced by the following:

‘3. Subject to the conditions provided for in Article 7g(1), point (b), and in Article 7g(3) of this Directive, toll rates may, for major projects of the core trans-European transport network, the maps of which are identified in Annex I to Regulation (EU) No 1315/2013, be subject to other forms of variation in order to secure the commercial viability of such projects where they are exposed to direct competition with other modes of transport. The resulting charging structure shall be linear and proportionate. Its details shall be made public, and it shall be available to all users on equal terms. It shall not lead to additional costs being passed on to other users in the form of higher tolls.’;

(14) Article 7j is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Tolls and user charges shall be applied and collected and their payment monitored in such a way as to cause as little hindrance as possible to the free flow of traffic and to avoid any mandatory controls or checks at the Union’s internal borders. To that end, Member States shall cooperate in establishing methods for enabling road users to pay tolls and user charges 24 hours a day at least electronically or, at the border or at major sales outlets, using common means of payment, inside and outside the Member States in which they are applied. Member States are not obliged to provide physical points of payment.’;

(b) the following paragraph is inserted:

‘2a. Where a driver or, if appropriate, the transport operator or the European Electronic Toll Service (EETS) provider, is unable to provide evidence of the emission class of the vehicle for the purposes of Article 7g(2), Article 7ga or Article 7gb, Member States may apply tolls or user charges up to the highest level chargeable.

Member States shall take the measures necessary to ensure that the road user can declare the emission class of the vehicle at least through electronic means before using the infrastructure. Member States may offer electronic and non-electronic means to enable the user to provide evidence in order to benefit from toll reductions or, where appropriate, in the event of a check. Member States may require that evidence supplied through electronic means is provided before the infrastructure is used.

Member States may take the measures necessary to ensure that the provision of evidence subsequent to the use of the infrastructure is accepted for 30 days or a longer period determined by the Member States after the use of the infrastructure and to ensure the reimbursement of any difference between the tolls or user charges applied and the toll or user charge corresponding to the emission class of the vehicle concerned that follows from evidence provided within the applicable time limit.’;

(c) paragraphs 3 and 4 are replaced by the following:

‘3. Where a Member State levies a toll on a vehicle, the total amount of the toll, the amount of the infrastructure charge, the amount of the external-cost charge, and the amount of the congestion charge, where applied, shall be indicated in a receipt provided to the road user, where possible by electronic means. The road user may agree not to be provided with the receipt.

4. Where economically feasible, Member States shall levy and collect infrastructure charges, external-cost charges and congestion charges by means of an electronic road toll system which complies with the provisions of Article 3(1) of Directive (EU) 2019/520 of the European Parliament and of the Council (*). The Commission shall promote cooperation between Member States that proves necessary to ensure the interoperability of electronic toll collection systems at European level.

(*) Directive (EU) 2019/520 of the European Parliament and of the Council of 19 March 2019 on the interoperability of electronic road toll systems and facilitating cross-border exchange of information on the failure to pay road fees in the Union (OJ L 91, 29.3.2019, p. 45).;

(15) Article 7k is replaced by the following:

‘Article 7k

Without prejudice to Articles 107 and 108 of the Treaty on the Functioning of the European Union, this Directive does not affect the freedom of Member States which introduce a system of tolls to provide for appropriate compensation.’;

(16) Article 8 is amended as follows:

(a) in paragraph 2, points (a) and (b) are replaced by the following:

‘(a) payment of the common user charge shall give access to the network as defined by the participating Member States in accordance with Article 7(1) and (2);

(b) the common user-charge rates shall be set by the participating Member States at levels that are not higher than the maximum rates referred to in Article 7a.’;

(b) the following paragraph is added:

‘3. In the case of a common system for user charges referred to in paragraph 1 of this Article, the final date of application of the variations referred to in the second and third subparagraphs of Article 7ga(1) is extended until ...[three years after the date of entry into force of this amending Directive], or if the reference CO₂ emissions are published after ... [the date of entry into force of this amending Directive], three years following the publication of the reference CO₂ emissions.’;

(17) Article 9 is amended as follows:

(a) paragraph 1a is replaced by the following:

‘1a. This Directive shall not prevent Member States from applying:

(a) regulatory charges specifically designed to reduce traffic congestion or combat environmental impacts, including poor air quality, on any roads located in an urban area, including trans-European network roads crossing urban areas;

(b) charges specifically designed to finance the construction, operation, maintenance and development of installations, embedded in or deployed along or over roads, providing energy to low- and zero-emission vehicles in motion and levied on such vehicles.

Those charges shall be applied on a non-discriminatory basis.’;

(b) in paragraph 2, the second subparagraph is deleted;

(18) in Article 9c, the following paragraph is added:

‘3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.’;

(19) Articles 9d and 9e are replaced by the following:

'Article 9d

The Commission is empowered to adopt delegated acts in accordance with Article 9e to amend this Directive in respect of Annex 0, the formulas in points 4.1 and 4.2 of Annex IIIa, and the amounts indicated in the Tables of Annexes IIIb and IIIc in order to adapt them to scientific and technical progress.

Under the circumstances referred to in Article 7cb(4), the Commission shall adopt delegated acts in accordance with Article 9e, to amend this Directive in respect of the reference values of the external-cost charge for CO₂ emissions set out in Annex IIIc, taking into account the effective carbon price applied to road transport fuels in the Union. Such amendments shall be limited to ensuring that the level of external-cost charges for CO₂ emissions does not go beyond what is necessary to internalise those external costs.

Article 9e

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 9d shall be conferred on the Commission for a period of five years from ... [*the date of entry into force of this amending Directive*]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 9d may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making (*).

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 9d shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

(*) OJ L 123, 12.5.2016, p. 1.;

(20) Articles 9f and 9g are deleted;

(21) Articles 10a and 11 are replaced by the following:

'Article 10a

1. The amounts in euros laid down in Annex II and the amounts in cents laid down in the Tables of Annexes IIIb and IIIc shall be adapted every two years in order to take account of changes in the EU-wide Harmonised Index of Consumer Prices (HICP) excluding energy and unprocessed food, as published by the Commission (Eurostat). The first adaptation shall take place by 31 March ... [*the year following 2 years after the entry into force of this amending Directive*].

The amounts shall be updated automatically, by adapting the base amount in euros or cents by the percentage change in that index. The resulting amounts shall be rounded up to the nearest euro with regard to Annex II, rounded up to the nearest tenth of a cent with regard to Annexes IIIb and IIIc.

2. The Commission shall publish in the *Official Journal of the European Union* the adapted amounts referred to in paragraph 1 by 31 March ...[the year following the 2 years after the entry into force of this amending Directive]. Those adapted amounts shall enter into force on the first day of the month following publication.

Article 11

1. By ... [3 years after the entry into force of this amending directive], and every five years thereafter, Member States shall make public in aggregate form a report on tolls and user charges levied on their territory.

2. The report made public pursuant to paragraph 1 shall include information on:

- (a) the evolution of charging for the use of road infrastructure, namely the networks and vehicle categories covered, including any exemption pursuant to Article 7, 7c or 7gb;
- (b) the variation of infrastructure charges or user charges according to the category of vehicle and the type of heavy-duty vehicle;
- (c) the variation of infrastructure charges or user charges according to the environmental performance of vehicles, pursuant to Article 7g, 7ga or 7gb;
- (d) where applicable, the variation of infrastructure charges according to the time of day, type of day, or season, pursuant to Article 7g(1);
- (e) the external-cost charge levied for each combination of class of vehicle, type of road and period of time;
- (f) the weighted average infrastructure charge and total revenue raised through the infrastructure charge;
- (g) the total revenue raised through external-cost charges;
- (h) the total revenue raised through congestion charges per category of vehicle;
- (i) the total revenue raised through mark-ups and on which road sections they were levied;
- (j) the total revenue raised through tolls or user charges, or, where applicable, both;
- (k) the use of revenues generated by applying this Directive, and how this use has allowed the Member State to meet the goals referred to in Article 9(2), or, where such revenues are allocated to the general budget, information on the level of expenditure allocated to road transport infrastructure and sustainable transport projects; and
- (l) the evolution of the share vehicles belonging to the various emission classes on tolled roads.

Member States making that information publicly available online may decide not to draw up the report.;

(22) the Annexes are amended as follows:

- (a) Annexes 0, II, III, IIIa, IIIb and IV are amended in accordance with points 1, 2, 3, 4, 5 and 7 of the Annex to this Directive;
- (b) The text set out in points 6 and 8 of the Annex to this Directive is added as Annexes IIIc, V, VI and VII to Directive 1999/62/EC.

Article 2

Amendments to Directive 1999/37/EC

Annex I to Directive 1999/37/EC is amended as follows:

(1) point II.6(V.7) is replaced by the following:

‘(V.7) CO₂ (in g/km) or Specific CO₂ emissions where indicated at position 49.5 of the Certificate of Conformity of heavy-duty vehicles defined in the Appendix to Annex VIII to Commission Implementing Regulation (EU) 2020/683 (*) or at position 49.5 of the individual vehicle approval certificate defined in Appendix 1 to Annex III to that Regulation,

(*) Commission Implementing Regulation (EU) 2020/683 of 15 April 2020 implementing Regulation (EU) 2018/858 of the European Parliament and of the Council with regards to the administrative requirements for the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (OJ L 163, 26.5.2020, p. 1).;

(2) the following point is added:

‘(V.10) CO₂ emission class of heavy-duty vehicles determined at the moment of first registration, in accordance with Article 7ga(2) of Directive 1999/62/EC of the European Parliament and of the Council (*)’.

(*) Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures (OJ L 187, 20.7.1999, p. 42).’.

Article 3

Amendment to Directive (EU) 2019/520

In Annex I to Directive (EU) 2019/520, Section ‘Data elements provided as a result of the automated search conducted pursuant to Article 23(1)’, Part I ‘Data relating to vehicles’, the Table is replaced by the following:

‘Part I. Data relating to vehicles

Item	M/O ⁽¹⁾	Remarks
Registration number	M	
Chassis number/Vehicle identification number (VIN)	M	
Member State of registration	M	
Make	M	(D.1 ⁽²⁾) e.g. Ford, Opel, Renault
Commercial type of the vehicle	M	(D.3) e.g. Focus, Astra, Megane
EU Category Code	M	(J) e.g. mopeds, motorbikes, cars
Euro emissions class	M	e.g. Euro 4, Euro 6
CO ₂ emission class	O	applicable to heavy-duty vehicles
Date of reclassification	O	applicable to heavy-duty vehicles
CO ₂ in g/tkm	O	applicable to heavy-duty vehicles
Technically permissible maximum laden mass of the vehicle	M	

⁽¹⁾ M = mandatory when available in national register, O = optional.

⁽²⁾ Harmonised Union code, see Directive 1999/37/EC.’.

Article 4

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ... [2 years 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 5***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 6***Addressees**

This Directive is addressed to the Member States.

Done at ...,

For the European Parliament
The President

For the Council
The President

ANNEX

(1) In point 3 of Annex 0 to Directive 1999/62/EC, the following Table is added:

‘Euro VI Emission Limits

	Limit values							
	CO (mg/kWh)	THC (mg/kWh)	NMHC (mg/kWh)	CH ₄ (mg/kWh)	NO _x ⁽¹⁾ (mg/kWh)	NH ₃ (ppm)	PM mass (mg/kWh)	PM number (#/kWh)
WHSC (CI)	1 500	130			400	10	10	$8,0 \times 10^{11}$
WHTC (CI)	4 000	160			460	10	10	$6,0 \times 10^{11}$
WHTC (PI)	4 000		160	500	460	10	10	$6,0 \times 10^{11}$

Note:

PI = Positive Ignition.

CI = Compression Ignition.

⁽¹⁾ The admissible level of NO₂ component in the NO_x limit value may be defined at a later stage.’;

(2) Annex II to Directive 1999/62/EC is replaced by the following:

‘ANNEX II

MAXIMUM AMOUNTS IN EURO OF USER CHARGES, INCLUDING ADMINISTRATIVE COSTS, REFERRED TO IN ARTICLE 7a(2)

Annual

	maximum three axles	minimum four axles
Euro 0	1 899	3 185
Euro I	1 651	2 757
Euro II	1 428	2 394
Euro III	1 242	2 073
Euro IV	1 081	1 803
Euro V	940	1 567
Euro VI	855	1 425

Monthly weekly and daily

Maximum monthly weekly and daily rates are in proportion to the duration of the use made of the infrastructure.’;

(3) Annex III to Directive 1999/62/EC is amended as follows:

(a) in point 2.1., the sixth indent is replaced by the following:

‘— Costs shall be apportioned to heavy-duty vehicles on an objective and transparent basis taking account of the proportion of heavy-duty vehicle traffic to be carried on the network and the associated costs. The vehicle kilometres travelled by heavy-duty vehicles may for this purpose be adjusted by objectively justified “equivalence factors” such as those set out in point 4 (*).

(*) The application of equivalence factors by Member States may take account of road construction developed on a phased basis or using a long life cycle approach.’;

(b) in point 2.2., the second indent is replaced by the following:

‘— Such costs shall be apportioned between heavy-duty vehicles and other traffic on the basis of actual and forecast shares of vehicle kilometres and may be adjusted by objectively justified equivalence factors such as those set out in point 4.’;

(c) in point 4, the heading is replaced by the following:

‘4. Share of heavy-duty vehicle traffic, equivalence factors and correction mechanism’;

(d) in point 4, the first indent is replaced by the following:

‘— The calculation of tolls shall be based on actual or forecast shares of heavy-duty vehicle kilometres adjusted, if desired, by equivalence factors, to make due allowance for the increased costs of constructing and repairing infrastructure for use by heavy-duty vehicles.’;

(4) Annex IIIa to Directive 1999/62/EC is replaced by the following:

‘ANNEX IIIa

MINIMUM REQUIREMENTS FOR LEVYING AN EXTERNAL-COST CHARGE

This Annex sets out the minimum requirements for levying an external-cost charge and, where applicable, for calculating the maximum external-cost charge.

1. The parts of the road network concerned

The Member State shall specify precisely the part or parts of their road network which are to be subject to an external-cost charge.

Where a Member State intends to levy an external-cost charge on only a part or parts of the road network composed of its share in the trans-European road network and of its motorways, the part or parts shall be chosen after an assessment establishing that the imposition of an external-cost charge on other parts of the road network thus composed might have adverse effects on the environment, public health or road safety.

From ... [4 years after the date of entry into force of this amending Directive], a Member State that intends not to levy an external-cost charge for air pollution on specific sections of its tolled road network, shall also choose those specific sections on the basis of such an assessment.

2. The vehicles, roads and time period covered

Where a Member State intends to apply higher external-cost charges than the reference values specified in Annex IIIb or IIIc, it shall notify the Commission of the classification of vehicles according to which the external-cost charge shall vary. Where applicable, it shall notify the Commission of the location of roads subject to higher external-cost charges ("suburban roads (including motorways)"), and of roads subject to lower external-cost charges ("interurban roads (including motorways)").

Where applicable, it shall also notify the Commission of the exact time periods corresponding to the night period during which a higher external noise-cost charge may be imposed to reflect greater noise nuisances.

The classification of roads as suburban roads (including motorways) and interurban roads (including motorways), and the definition of time periods shall be based on objective criteria related to the level of exposure of the roads and their vicinities to pollution, such as: population density, the annual mean air pollution (in particular for PM₁₀ and NO₂) and the number of days (for PM₁₀) and hours (NO₂) on which limit values established under Directive 2008/50/EC are exceeded. The criteria used shall be included in the notification.

3. Amount of the charge

This section shall apply where a Member State intends to apply higher external-cost charges than the reference values specified in Annex IIIb or IIIc.

For each vehicle class, type of road and time period, as applicable, the Member State or, where appropriate, an independent authority shall determine a single specific amount. The resulting charging structure shall be transparent, made public and available to all users on equal terms. The publication should occur in a timely manner before implementation. All parameters, data and other information necessary to understand how the various external-cost elements are calculated shall be made public.

When setting the charges, the Member State or, where appropriate, an independent authority shall be guided by the principle of efficient pricing that is a price close to the social marginal cost of the usage of the vehicle charged.

The charge shall be set after having considered the risk of traffic diversion together with any adverse effects on road safety, the environment and congestion, and any solutions to mitigate these risks.

The Member State or, where appropriate, an independent authority, shall monitor the effectiveness of the charging scheme in reducing environmental damage arising from road transport. Every two years, it shall adjust, where appropriate, the charging structure and the specific amount of the charge set for a given class of vehicle, type of road and period of time to the changes in transport supply and demand.

4. External-cost elements

4.1. Cost of traffic-based air pollution

Where a Member State intends to apply higher external-cost charges than the reference values specified in Annex IIIb, that Member State, or, where appropriate, an independent authority, shall calculate the chargeable cost of traffic-based air pollution by applying the following formula:

$$PCV_{ij} = \sum_k EF_{ik} \times PC_{jk}$$

where:

- PCV_{ij} = air pollution cost of vehicle class i on road type j (euro/vehicle.kilometre)
- EF_{ik} = emission factor of pollutant k and vehicle class i (gram/vehicle.kilometre)
- PC_{jk} = monetary cost of pollutant k for type of road j (euro/gram)

The emission factors shall be the same as those used by the Member State to establish the national emissions inventories provided for in Directive (EU) 2016/2284 of the European Parliament and of the Council (*) (which requires use of the EMEP/EEA air pollutant emission inventory guidebook (**)). The monetary cost of pollutants shall be estimated by the Member State, or, where appropriate, the independent authority referred to in Article 7c(2) of this Directive, using scientifically proven methods.

The Member State, or, where appropriate, an independent authority, may apply scientifically proven alternative methods to calculate the value of air pollution costs using data from air pollutant measurement and the local value of the monetary cost of air pollutants.

4.2. Cost of traffic-based noise pollution

Where a Member State intends to apply higher external-cost charges than the reference values specified in Annex IIIb, the Member State, or, where appropriate, an independent authority, shall calculate the chargeable cost of traffic-based noise pollution by applying the following formulae:

$$NCV_j \text{ (daily)} = e \times \sum_k NC_{jk} \times POP_k / WADT$$

$$NCV_j \text{ (day)} = a \times NCV_j$$

$$NCV_j \text{ (night)} = b \times NCV_j$$

where:

- NCV_j = noise cost of one heavy goods vehicle on road type j (euro/vehicle.kilometre)
- NC_{jk} = noise cost per person exposed on road type j to noise level k (euro/person)
- POP_k = population exposed to daily noise level k per kilometre (person/kilometre)
- $WADT$ = weighted average daily traffic (passenger car equivalent)
- a and b are weighting factors determined by the Member State in such a way that the resulting weighted average noise charge per vehicle kilometre corresponds to NCV_j (daily).

The traffic-based noise pollution relates to the impact of noise on health of citizens around the road.

The population exposed to noise level k shall be taken from the strategic noise maps drafted under Article 7 of Directive 2002/49/EC of the European Parliament and the Council (***), or other equivalent data source.

The cost per person exposed to noise level k shall be estimated by the Member State or, where appropriate, an independent authority, using scientifically proven methods.

The weighted average daily traffic shall assume an equivalence factor “e” between heavy goods vehicles and passenger cars derived on the basis of the noise emission levels of the average car and of the average heavy goods vehicle and considering the Regulation (EU) No 540/2014 of the European Parliament and of the Council (****).

The Member State, or, where appropriate, an independent authority, may establish differentiated noise charges to reward the use of quieter vehicles provided it does not result in discrimination against foreign vehicles.

4.3. Cost of traffic-based CO₂ emissions

Where a Member State intends to apply an external-cost charge for CO₂ emissions higher than the reference values set out in Annex IIIc, that Member State, or, where appropriate, an independent authority, shall calculate the chargeable cost based on scientific evidence using the avoidance cost approach, taking into account and explaining, in particular, the following aspects:

- (a) the choice of emission target level;
- (b) estimation of options for mitigation;
- (c) estimation of baseline scenario;
- (d) risk and loss aversion;
- (e) equity weighting.

At least six months before the implementation of such an external-cost charge for CO₂ emissions, the Member State shall notify the Commission.

(*) Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC (OJ L 344, 17.12.2016, p. 1).

(**) Methodology of the European Environmental Agency: EMEP/EEA air pollutant emission inventory guidebook 2019 - Technical guidance to prepare national emission inventories (<http://www.eea.europa.eu/publications/emep-eea-guidebook-2019>).

(***) Directive 2002/49/EC of the European Parliament and the Council of 25 June 2002 relating to the assessment and management of environmental noise (OJ L 189, 18.7.2002, p. 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).;

(5) Annex IIIb to Directive 1999/62/EC is replaced by the following:

‘ANNEX IIIb

REFERENCE VALUES OF THE EXTERNAL-COST CHARGE

This Annex sets out reference values of the external-cost charge, including the cost of air pollution and noise.

Table 1

Reference values of the external-cost charge for heavy goods vehicles

Vehicle class	cent/vehicle-kilometre	Suburban ⁽¹⁾	Interurban ⁽²⁾
Heavy goods vehicle having a technically permissible maximum laden mass of less than 12 tonnes or having two axles	Euro 0	18,6	9,9
	Euro I	12,6	6,4
	Euro II	12,5	6,3
	Euro III	9,6	4,8
	Euro IV	7,3	3,4

Vehicle class	cent/vehicle-kilometre	Suburban ⁽¹⁾	Interurban ⁽²⁾
	Euro V	4,4	1,8
	Euro VI	2,3	0,5
	Less polluting than Euro VI, including zero-emission vehicles	2,0	0,3
Heavy goods vehicle having a technically permissible maximum laden mass between 12 and 18 tonnes or having three axles	Euro 0	24,6	13,7
	Euro I	15,8	8,4
	Euro II	15,8	8,4
	Euro III	12,5	6,6
	Euro IV	9,2	4,5
	Euro V	5,6	2,7
	Euro VI	2,8	0,7
	Less polluting than Euro VI, including zero-emission vehicles	2,3	0,3
Heavy goods vehicle having a technically permissible maximum laden mass between 18 and 32 tonnes or having four axles	Euro 0	27,8	15,8
	Euro I	20,4	11,3
	Euro II	20,4	11,2
	Euro III	16,3	8,9
	Euro IV	11,8	6,0
	Euro V	6,6	3,4
	Euro VI	3,1	0,8
	Less polluting than Euro VI, including zero-emission vehicles	2,5	0,3
Heavy goods vehicle having a technically permissible maximum laden mass above 32 tonnes or having 5 or more axles	Euro 0	33,5	19,4
	Euro I	25,0	14,1
	Euro II	24,9	13,9
	Euro III	20,1	11,1
	Euro IV	14,2	7,5

Vehicle class	cent/vehicle-kilometre	Suburban ⁽¹⁾	Interurban ⁽²⁾
	Euro V	7,6	3,8
	Euro VI	3,4	0,8
	Less polluting than Euro VI, including zero-emission vehicles	2,8	0,3

⁽¹⁾ "Suburban" means areas with a population density between 150 and 900 inhabitants/km² (median population density of 300 inhabitants/km²).

⁽²⁾ "Interurban" means areas with a population density below 150 inhabitants/km².

The values of Table 1 may be multiplied by a factor of up to 2 in mountain areas and around agglomerations to the extent that it is justified by lower dispersion, the gradient of roads, altitude or temperature inversions. If there is scientific evidence for a higher mountain or agglomeration factor, this reference value can be increased based on a detailed justification.;

- (6) the following Annex is added to Directive 1999/62/EC:

'ANNEX IIIc

REFERENCE VALUES OF THE EXTERNAL-COST CHARGE FOR CO₂ EMISSIONS

This Annex sets out reference values of the external-cost charge taking into account the cost of CO₂ emissions.

Table 1

Reference values of the external-cost charge for CO₂ emissions for heavy goods vehicles

Vehicle class		cent/vehicle-kilometre	Interurban roads (including motorways)
Heavy goods vehicle having a technically permissible maximum laden mass of less than 12 tonnes or having two axles	CO ₂ emission class 1	Euro 0	4,5
		Euro I	4,0
		Euro II	
		Euro III	
		Euro IV	
		Euro V	
		Euro VI	
	CO ₂ emission class 2		3,8
	CO ₂ emission class 3		3,6
	Low-emission vehicle		2,0
	Zero-emission vehicle		0
Heavy goods vehicle having a technically permissible maximum laden mass between 12 and 18 tonnes or having three axles	CO ₂ emission class 1	Euro 0	6,0
		Euro I	5,2
		Euro II	
		Euro III	
		Euro IV	5,0
		Euro V	
		Euro VI	

Vehicle class		cent/vehicle-kilometre	Interurban roads (including motorways)
	CO ₂ emission class 2		4,8
	CO ₂ emission class 3		4,5
	Low-emission vehicle		2,5
	Zero-emission vehicle		0
Heavy goods vehicle having technically permissible maximum laden mass between 18 and 32 tonnes or having four axles	CO ₂ emission class 1	Euro 0	7,9
		Euro I	6,9
		Euro II	
		Euro III	
		Euro IV	6,7
		Euro V	
		Euro VI	
	CO ₂ emission class 2		6,4
	CO ₂ emission class 3		6,0
	Low-emission vehicle		3,4
	Zero-emission vehicle		0
	CO ₂ emission class 1	Euro 0	9,1
		Euro I	8,1
		Euro II	
		Euro III	
		Euro IV	8,0
		Euro V	
		Euro VI	
Heavy goods vehicle having a technically permissible maximum laden mass above 32 tonnes or having 5 or more axles	CO ₂ emission class 2		7,6
	CO ₂ emission class 3		7,2
	Low-emission vehicle		4,0
	Zero-emission vehicle		0*

(7) in Annex IV to Directive 1999/62/EC, the Table 'Vehicle combinations (articulated vehicles and road trains)' is replaced by the following:

Vehicle combinations (articulated vehicles and road trains)

Driving axles with air suspension or recognised as equivalent		Other driving axle suspension systems		Damage class
Number of axles and technically permissible maximum laden mass (in tonnes)		Number of axles and technically permissible maximum laden mass (in tonnes)		
Not less than	Less than	Not less than	Less than	
2 + 1 axles				
7,5	12	7,5	12	I
12	14	12	14	
14	16	14	16	
16	18	16	18	
18	20	18	20	
20	22	20	22	
22	23	22	23	
23	25	23	25	
25	28	25	28	
2 + 2 axles				
23	25	23	25	
25	26	25	26	
26	28	26	28	
28	29	28	29	
29	31	29	31	II
31	33	31	33	
33	36	33	36	III
36	38			
2 + 3 axles				II
36	38	36	38	
38	40			
		38	40	III

Driving axles with air suspension or recognised as equivalent		Other driving axle suspension systems		Damage class
Number of axles and technically permissible maximum laden mass (in tonnes)		Number of axles and technically permissible maximum laden mass (in tonnes)		
Not less than	Less than	Not less than	Less than	
2 + 4 axles				II
36	38	36	38	
38	40			
		38	40	III
3 + 1 axles				II
30	32	30	32	
32	35			
		32	35	III
3 + 2 axles				II
36	38	36	38	
38	40			
		38	40	III
		40	44	
40	44			
3 + 3 axles				
36	38	36	38	I
38	40			
		38	40	II
40	44	40	44	
7 axles				
40	50	40	50	II
50	60	50	60	III
60		60		
At least 8 axles				
40	50	40	50	I
50	60	50	60	II
60		60		III'

(8) the following Annexes are added to Directive 1999/62/EC:

‘ANNEX V

MINIMUM REQUIREMENTS FOR LEVYING A CONGESTION CHARGE

This Annex sets out the minimum requirements for levying a congestion charge.

1. The parts of the network subject to congestion charging, vehicles and time periods covered

Member States shall specify precisely:

- (a) the part or parts of their network composed of their share in the trans-European road network and their motorways referred to in Article 7(1), which are to be subject to a congestion charge, in accordance with Article 7da(1) and (3).
- (b) the classification of sections of the network which are subject to the congestion charge as “metropolitan” and “non-metropolitan”. Member States shall use the criteria set out in Table 1 for the purposes of determining the classification of each road segment.

Table 1

Criteria for classifying roads on the network referred to in points (a) as “metropolitan” and “non-metropolitan”

Road category	Classification criterion
“metropolitan”	Sections of the network running inside agglomerations with a population of 250 000 inhabitants or more
“non-metropolitan”	Sections of the network which are not qualified as “metropolitan”

- (c) the periods during which the charge applies, for each individual segment. Where different charge levels apply throughout the charging period, Member States shall clearly specify the beginning and the end of each period during which a specific charge is applied.

Member States shall use the equivalence factors provided in Table 2 for the purpose of establishing the proportion between charge levels for different vehicle categories:

Table 2

Equivalence factors for establishing the proportion between congestion charge levels for different vehicle categories

Vehicle category	Equivalence factor
Light-duty vehicles	1
Rigid heavy goods vehicles	1,9
Coaches and buses	2,5
Articulated heavy goods vehicles	2,9

2. Amount of the charge

For each vehicle category, road segment and time period, the Member State or, where appropriate, an independent authority shall determine a single specific amount, set in accordance with the provisions of Section 1 of this Annex, taking into account the corresponding reference value set out in the Table of Annex VI. The resulting charging structure shall be transparent, made public and available to all users on equal terms.

Before implementing a congestion charge, the Member State shall publish in a timely manner all of the following:

- (a) all parameters, data and other information necessary to understand how the classification of roads and vehicles and determination of periods of application of the charge are established;
- (b) the complete description of congestion charges applying to each vehicle category on each road segment and for each time period.

Member States shall make available to the Commission all information to be published pursuant to points (a) and (b).

The charge shall be set only after having considered the risk of traffic diversion together with any adverse effects on road safety, the environment and congestion, and any solutions to mitigate these risks.

Where a Member State intends to apply higher congestion charges than the reference values set out in the Table of Annex VI, it shall notify the Commission of the following:

- (i) the location of roads subject to congestions charges;
- (ii) the classification of roads as “metropolitan” and “non-metropolitan”, as specified under point (b) of Section 1;
- (iii) the periods during which the charge applies, as specified under point (c) of Section 1;
- (iv) any partial or full exemption applied to minibuses, buses and coaches.

3. Monitoring

The Member State or, where appropriate, an independent authority, shall monitor the effectiveness of the charging scheme in reducing congestion. It shall adjust every three years, where appropriate, the charging structure, charging period(s) and the specific amount of the charge set for each given category of vehicle, type of road and period to the changes in transport supply and demand.’

‘ANNEX VI

REFERENCE VALUES OF CONGESTION CHARGE

This Annex sets out the reference values of congestion charge.

The reference values provided for in the Table below shall be applied to light-duty vehicles. Congestion charge for other vehicle categories shall be established by multiplying the charge applied to light-duty vehicles by the equivalence factors provided in the Table of Annex V.

Table

Reference values of congestion charge for light-duty vehicles

cent/vehicle-kilometre	Metropolitan	Non-metropolitan
Motorways	25,9	23,7
Main roads	61,0	41,5’

‘ANNEX VII

EMISSION PERFORMANCE

This Annex specifies the emission performance for pollutants according to which tolls and user charges shall be differentiated in accordance with Article 7gb(1), point (b).

Table

Emission performance criteria for pollutants for light-duty vehicles

Toll and user charge	5-15 % below highest rate	15-25 % below highest rate	25-35 % below highest rate	Up to 75 % below highest rate
Emission performance	Euro-6d-temp-x ⁽¹⁾	Euro-6d-x ⁽¹⁾	Declared maximum RDE values for pollutant emissions ⁽²⁾ < 80 % of the applicable emission limits	Zero-emission vehicles

⁽¹⁾ where x may be empty or be one of the following (EVAP, EVAP-ISC, ISC or ISC-FCM)

⁽²⁾ for both NO_x and PN as reported in point 48.2 of the Certificate of Conformity, in the Appendix to Annex VIII to Commission Implementing Regulation (EU) 2020/683 (*).

(*) Commission Implementing Regulation (EU) 2020/683 of 15 April 2020 implementing Regulation (EU) 2018/858 of the European Parliament and of the Council with regards to the administrative requirements for the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (OJ L 163, 26.5.2020, p. 1).

Statement of the Council's reasons: Position (EU) No 37/2021 of the Council at first reading with a view to the adoption of a Directive of the European Parliament and of the Council amending Directives 1999/62/EC, 1999/37/EC and (EU) 2019/520, as regards the charging of vehicles for the use of certain infrastructures

(2021/C 499/02)

I. INTRODUCTION

1. The European Commission submitted the above-mentioned proposal to the European Parliament and to the Council on 1 June 2017 as part of the First Mobility Package.
2. This proposal modifies Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures ⁽¹⁾ (hereinafter 'Directive 1999/62/EC'), with the aim of addressing problems relating to greenhouse gas emissions, financing of road infrastructure and congestion.
3. The European Parliament designated its Committee on Transport and Tourism (TRAN Committee) as the committee responsible for this proposal and Mrs Christine Revault d'Allonnes Bonnefoy as the rapporteur for the 8th parliamentary term.
4. The European Economic and Social Committee adopted its opinion on the proposal at the 529th plenary session, on 18 October 2017. The European Committee of the Regions adopted its opinion at the 127th plenary session, on 1 February 2018.
5. On 25 October 2018, the European Parliament adopted its first-reading position.
6. Following the parliamentary elections in 2019, Mr Giuseppe Ferrandino was designated as the rapporteur for the 9th parliamentary term.
7. The TRAN committee adopted a decision on 24 September 2019 to enter into informal political trilogues, based on the European Parliament's first-reading position.
8. At the Council, the Working Party on Land Transport started its work on 1 June 2017 with a general presentation of the proposal. On 21 June 2017, the impact assessment was analysed.
9. The Council (TTE, Transport) held its first policy debate on the proposal on 5 December 2017 ⁽²⁾.
10. Since then, the proposal has been discussed on several occasions and extensive work has been carried out.
11. On 18 December 2020, the Permanent Representatives Committee endorsed the mandate set out in the Annex to document 13827/20, which allowed negotiations with the European Parliament to begin.
12. Between January and June 2021, a significant number of meetings were held by at the level of the Working Party on Land Transport and of the Permanent Representatives Committee to prepare and follow up on negotiations.
13. Three informal political trilogues with the European Parliament held on 29 January, 23 March and 15 June 2021, accompanied by a number of technical meetings, allowed the co-legislators to reduce the gap between their positions and thus reach a political agreement.

⁽¹⁾ OJ L 187, 20.7.1999, p. 42.

⁽²⁾ Ref. document 14426/17.

14. On 30 June 2021, the Permanent Representatives Committee analysed the provisional compromise text with a view to reaching an agreement ⁽³⁾.
15. On 14 July 2021, the Chair of the European Parliament's TRAN Committee addressed a letter ⁽⁴⁾ to the President of the Permanent Representatives Committee stating that, if the Council adopted its position at first reading in accordance with the text attached to that letter, she would recommend to the Members of the TRAN Committee and subsequently to the plenary that the Council's position be accepted without amendment, subject to legal-linguistic verification, at European Parliament's second reading.
16. On 9 November 2021, the Council adopted its position at first reading on the proposal as set out in document 10542/21.

II. OBJECTIVE

17. The amendments to Directive 1999/62/EC set out in the European Commission proposal were aimed at boosting road transport decarbonisation. They mainly focused on the following:
 - extending the scope of charging rules to buses and coaches, to trucks between 3.5 and 12 tonnes and, to some extent, to light-duty vehicles including passenger cars;
 - phasing out time-based charging systems (the so-called 'vignettes') for heavy- and light-duty vehicles;
 - the mandatory application of an external-cost charge to heavy-duty vehicles on those parts of the network where environmental damage generated by such vehicles would be significant, as well as the revision of the requirements to levy such charges;
 - differentiating prices based on CO₂ emissions rather than on Euro emission classification; and
 - allocating revenues generated from congestion charges, or their equivalent in financial value, to address the problem of congestion.

III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

A. General

18. The compromise text that was confirmed by the Council on 9 November 2021 fully reflects the political agreement reached by the co-legislators. It also maintains the main objectives of the European Commission proposal and, at the same time, reflects a balance between the most important amendments adopted by the European Parliament in its first reading and the Council mandate.
19. At its first reading, the European Parliament adopted about 130 amendments, which have been analysed on a number of occasions at the level of the Working Party on Land Transport. From the outset, the positions of the two co-legislators appeared to be significantly divergent on many provisions, including the most controversial ones, such as the phasing-out of user charges. Nevertheless, following intensive negotiations at both political and technical level, convergence between the two co-legislators was eventually reached.

B. Main issues

20. Overall, the modifications made to the European Commission proposal respect its overarching goals to:
 - strengthen the application of the 'user pays' and 'polluter pays' principles;
 - properly contribute to the financing of road infrastructure;
 - address congestion;
 - boost transport decarbonisation; and
 - contribute to achieving climate objectives.

⁽³⁾ Ref. documents 9960/21 and 9960/21 COR 1.

⁽⁴⁾ Ref. IM 010110 2021. Please note that, because of the COVID-19 pandemic, the paper version of the letter was not sent by regular mail.

21. At the same time, the co-legislators have found the right balance between the ambition when it comes to the above mentioned goals and the need to ensure that the regulatory framework is easily applicable by the sector or authorities and flexible enough to allow the Member States to choose the most suitable charging systems, without creating unjustified administrative burdens.
22. More specifically, the main changes compared to the original European Commission proposal can be summarised as follows:
 - a) the list of definitions in Article 2 has been extended, with some new definitions being added (e.g. 'motor caravan', 'van', 'zero-emission vehicle') and others being made clearer or more specific (e.g. 'heavy-duty vehicle', 'light-duty vehicle', 'substantially amended tolling or charging arrangement');
 - b) Article 7, the core provision defining the general charging principles, has been revised so that:
 - vehicles – be they light- or heavy-duty vehicles or vehicle types within such categories – can be charged independently from each other. Nevertheless, where passenger cars are charged, light commercial vehicles have to be also charged at an equal level or higher;
 - Member States can decide to maintain the *status quo* of existing concession contracts, while not applying the new charging rules until the contract has been renewed or the tolling or charging arrangement has been substantially amended;
 - Member States can provide for reduced tolls or user charges or exemptions from the obligation to pay tolls or user charges in specific cases (e.g. for zero-emission vehicles with a technically permissible maximum laden mass up to 4.25 tonnes);
 - user charges for heavy-duty vehicles will be phased out on the core TEN-T network within eight years of the entry into force of the directive. Member States applying a common system of user charges (e.g. the 'Eurovignette Treaty') can nevertheless take two additional years to adapt or discontinue that system. As a derogation from the general principle of phasing-out, exemptions are allowed in duly justified cases, after notifying the scheme to the Commission;
 - the Article (together with Article 7a) now includes two review clauses allowing the Commission to assess the implementation and effectiveness of the directive with regard to the charging of light-duty vehicles as well as the technical and legal feasibility of differentiating the treatment of light commercial vehicles.
 - c) a new provision, Article 7aa, now lays down the so-called 'combined charging system'. This Article provides that Member States applying tolls on their core TEN-T network or on part of it before the entry into force of the directive, can establish a combined charging system for all heavy-duty vehicles or for some types of heavy-duty vehicles. Within that system, the user charges have to be varied according to the vehicle's CO₂ emissions and Euro emission class;
 - d) slight adjustments to the proportionality of the user charges for passenger cars have been made in Article 7a. Additionally, according to this provision, the use of the infrastructure also has to be made available for a day, and for a week or ten days or both. Nevertheless, the Member States may limit the daily user charge for transit purposes only. If Member States set different charges for light commercial vehicles and for passenger cars, the charge rates for light commercial vehicles will be higher than those for passenger cars;
 - e) when it comes to internalising external costs for heavy-duty vehicles, Articles 7ca and 7cb now make external-cost charging for air pollution mandatory, after a four-year transition period, where tolls are applied. Nevertheless, the Member States will be able not to apply the external-cost charge for air pollution, in case of unintended consequences involving the diversion of traffic, after notifying the Commission. This mandatory charging is without prejudice to the choice of the Member States to apply an external-cost charge for CO₂ emissions anyway. Nevertheless, the Commission will be allowed to evaluate the implementation and effectiveness of external-cost charging for CO₂ emissions;

f) when it comes to optional charging:

- Article 7da now lays down that revenues generated from (optional) congestion charges, or their equivalent in financial value, are to be used to address the problem of congestion, or to develop sustainable transport and mobility in general. Where such revenues are allocated to the general budget, Member States will be deemed to have fulfilled the obligation if they implement financial support policies to address the problem of congestion or to develop sustainable transport and mobility in general which have a value equivalent to the revenues generated from congestion charges; and
- Article 7f now lays down that if two or more Member States decide to apply a mark-up in the same corridor, the mark-up can exceed 25 % (but not 50 %), only upon agreement of all Member States which are part of that corridor and which neighbour the Member States in the territory of which the section of the corridor where the mark-up is to be applied falls;

g) as regards variations based on CO₂ emissions and on the environmental performance of the vehicles:

- a new provision, Article 7ga, introduces CO₂ in the list of chargeable costs, in line with climate objectives. This provision requires Member States to vary infrastructure and user charges for heavy-duty vehicles based on CO₂ emissions. Initially, the scheme should only apply to the largest trucks, but it would gradually be extended to other types of heavy-duty vehicles and regularly adapted to technological progress. Member States will also be able to give preferential treatment to zero-emission vehicles, in order to incentivise the purchase of 'best-in-class' vehicles. The new provision nevertheless includes safeguards to avoid double rewarding of hybrid vehicles and possible overlaps with other carbon-pricing instruments; and
- Article 7gb now leaves discretion to the Member States when it comes to differentiating tolls and user charges for light-duty vehicles according to the environmental performance of the vehicle. Nevertheless, this provision requires mandatory variation of tolls and the annual rate of the user charges for vans and minibuses, according to the environmental performance of the vehicle, as of 2026, where tolls or user charges are applied and where technically practicable;

h) adjustments have been made to Article 11, as regards both the type of information to be provided in the report that the Member States are required to make public in an aggregate form and the frequency of its publication (i.e. the report will have to be drawn up by three years after the entry into force of the directive and every five years thereafter);

i) Article 4 of the amending directive sets a transposition period of two years; and

j) the Annexes have been revised as regards maximum amounts of user charges, minimum requirements and reference values of external-cost charges, minimum requirements and reference values of congestion charges and emission performance criteria for pollutants for light-duty vehicles.

IV. CONCLUSION

23. The Council's position maintains the main objectives of the European Commission's proposal and fully reflects the compromise reached in the informal negotiations between the Council and the European Parliament, with the support of the European Commission.
 24. This compromise was confirmed by a letter from the Chair of the European Parliament's TRAN Committee addressed to the Presidency and dated 14 July 2021; it was subsequently adopted by the Council (ECOFIN) on 9 November 2021 as a first reading position.
-

ISSN 1977-091X (electronic edition)
ISSN 1725-2423 (paper edition)



Publications Office of the European Union
L-2985 Luxembourg
LUXEMBOURG

EN