

# **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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 71(1) and 93 thereof,

Having regard to the proposal from the Commission(1),

Having regard to the Opinion of the Economic and Social Committee(2),

Having regard to the Opinion of the Committee of the Regions(3)

Acting in accordance with the procedure laid down in Article 251 of the Treaty(4),

Whereas:

- (1) The elimination of distortions of competition between transport undertakings in the Member States calls for both the harmonisation of levy systems and the establishment of fair mechanisms for charging infrastructure costs to hauliers;
- (2) These objectives can be achieved only in stages;
- (3) A degree of harmonisation of levy systems has already been achieved through the adoption of Council Directive 92/81/EEC of 19 October 1992 on the harmonisation of the structures of excise duties on mineral oils(5) and Council Directive 92/82/EEC of 19 October 1992 on the approximation of the rates of excise duties on mineral oils(6);
- (4) By judgment of 5 July 1995 in Case C-21/94 European Parliament v. Council(7) the Court of Justice of the European Communities annulled Council Directive 93/89/EEC of 25 October 1993 on the application by Member States of taxes on certain vehicles used for the carriage of goods by road and tolls and user charges for the use of certain infrastructures(8), while preserving the effects of that Directive until the Council had adopted a new Directive; therefore, Directive 93/89/EEC is replaced by this Directive;
- (5) Under present circumstances the adjustment of national levy systems should be confined to commercial vehicles of more than a certain gross laden weight;
- (6) For this purpose minimum rates should be set for the vehicle taxes currently applied by the Member States or any which might succeed them;
- (7) The use of road-friendly and less polluting vehicles should be encouraged through differentiation of taxes or charges, provided that such differentiation does not interfere with the functioning of the internal market;
- (8) It is appropriate that certain Member States may be granted a period of derogation from the minima to facilitate adaptation to the levels required by this Directive;
- (9) Certain local domestic transport operations with little impact on the Community transport market are at present subject to reduced rates of vehicle tax; in order to ensure smooth transition, Member States should be authorised to lay down temporary derogations from minimum rates;

- (10) Member States should be permitted to apply reduced rates or exemptions of vehicle taxes in the case of vehicles whose use is not liable to affect the Community transport market;
- (11) In order to make allowance for certain special situations, a procedure should be laid down whereby Member States may be permitted to maintain further exemptions or reductions;
- (12) Existing distortions of competition cannot be eliminated solely by harmonising taxes or fuel excise duties; however, until technically and economically more appropriate forms of levy are in place, such distortions may be attenuated by the possibility of retaining or introducing tolls and/or user charges for the use of motorways; in addition Member States should be allowed to levy charges for the use of bridges, tunnels and mountain passes;
- (13) In view of the specific conditions on certain Alpine routes, it may be appropriate for a Member State to disapply a user charge system from a well defined section of its motorway network in order to permit application of an infrastructure related charge;
- (14) Tolls and user charges should not be discriminatory nor entail excessive formalities or create obstacles at internal borders; therefore, adequate measures should be taken to permit the payment of tolls and user charges at any time and with different means of payment;
- (15) The rates of user charges should be based on the duration of the use made of the infrastructure in question and be differentiated in relation to the costs caused by the road vehicles;
- (16) Reduced rates of user charges should be applied temporarily for vehicles registered in Greece to take account of difficulties due to its geopolitical position;
- (17) In order to ensure that user charges and tolls are applied homogeneously, certain rules for determining their manner of application should be laid down, such as the characteristics of the infrastructure to which they are applicable, the maximum levels of certain rates and other general conditions that will have to be complied with; weighted average tolls should be related to the costs of construction, operating and developing the infrastructure network concerned;
- (18) Member States should be able to attribute to environmental protection and the balanced development of transport networks a percentage of the amount of the user charge or of the toll, provided that this amount is calculated in accordance with the provisions of this Directive;
- (19) The amounts in this Directive expressed in the national currency units of Member States adopting the euro were fixed on 1 January 1999 when the value of the euro was determined in accordance with Council Regulation (EC) No 2866/98 of 31 December 1998 on the conversion rates between the euro and the currencies of the Member States adopting the euro(9); it is appropriate that Member States not adopting the euro should review annually the amounts in this Directive in national currencies and adjust them where appropriate to take account of changes in the exchange rates; annual adjustments in national currencies may not be compulsory if the change resulting from the application of the new exchange rates is below a certain percentage level;
- (20) The principle of territoriality should be applied; two or more Member States may cooperate for the purpose of introducing a common system of user charges, subject to compliance with some additional conditions;
- (21) In accordance with the principle of proportionality, this Directive limits itself to the minimum required for the attainment of the objectives under the third paragraph of Article 5 of the Treaty;
- (22) A strict timetable should be set for reviewing the provisions of this Directive and considering adjustments to them, if necessary, with the aim of developing a more territorial levy system,

HAVE ADOPTED THIS DIRECTIVE:

## CHAPTER I

### General provisions

#### Article 1

This Directive applies to vehicle taxes, tolls and user charges imposed on vehicles as defined in Article 2.

This Directive shall not affect vehicles carrying out transport operations exclusively in the non-European territories of the Member States.

It shall also not affect vehicles registered in the Canary Islands, Ceuta and Melilla, the Azores or Madeira and carrying out transport operations exclusively in those territories or between those territories and, respectively, mainland Spain and mainland Portugal.

#### Article 2

For the purposes of this Directive:

(a) "motorway" means a road specially designed and built for motor traffic, which does not serve properties bordering on it, and which:

(i) 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;

(ii) does not cross at grade with any road, railway or tramway track, or footpath;

(iii) is specifically designated as a motorway;

(b) "toll" means payment of a specified amount for a vehicle travelling the distance between two points on the infrastructures referred to in Article 7(2); the amount shall be based on the distance travelled and the type of the vehicle;

(c) "user charge" means payment of a specified amount conferring the right for a vehicle to use for a given period the infrastructures referred to in Article 7(2);

(d) "vehicle" means a motor vehicle or articulated vehicle combination intended exclusively for the carriage of goods by road and having a maximum permissible gross laden weight of not less than 12 tonnes;

(e) "EURO I vehicle" means a vehicle having the characteristics set out in line A of the table in Section 8.3.1.1 of Annex I to Council Directive 88/77/EEC of 3 December 1987 on the approximation of the laws of the Member States relating to the measures to be taken against the emission of gaseous and particulate pollutants from diesel engines for use in vehicles(10);

(f) "EURO II vehicle" means a vehicle having the characteristics set out in line B of the table in section 8.3.1.1 of Annex I to Directive 88/77/EEC.

## CHAPTER II

### Vehicle taxation

#### Article 3

1. The vehicle taxes referred to in Article are as follows:

- Belgium:

taxe de circulation sur les véhicules automobiles/ /verkeersbelasting op de autovoertuigen,

- Denmark:

vaegtafgift of motorkeretrajer m.v.,

- Germany:

Kraftfahrzeugsteuer,

- Greece:

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- Spain:

(a) impuesto sobre vehiculos de traccion mecanica;

(b) impuesto sobre actividades economicas (solely as regards the amount of the levies charged for motor vehicles),

- France:

(a) taxe spéciale sur certains véhicules routiers;

(b) taxe différentielle sur les véhicules a moteur,

- Ireland:

vehicle excise duty,

- Italy:

(a) tassa automobilistica;

(b) addizionale del 5 % sulfa tassa automobilistica,

- Luxembourg:

taxe sur les véhicules automoteurs,

- Netherlands:

motorrijtuigenbelasting,

- Austria:

Kraftfahrzeugsteuer,

- Portugal:

(a) imposto de camionagem;

(b) imposto de circulação,

- Finland:

varsinainen ajoneuvovero//egentlig fordonsskatt,

- Sweden:

fordonsskatt,

- United Kingdom:

(a) vehicle excise duty;

(b) motor vehicles licence.

2. Member States which replace any tax listed in paragraph 1 with another tax of the same kind shall notify the Commission, which shall make the necessary amendments.

#### Article 4

Procedures for levying and collecting the taxes referred to in Article 3 shall be determined by each Member State.

#### Article 5

As regards vehicles registered in the Member States, the taxes referred to in Article 3 shall be charged solely by the Member State of registration.

#### Article 6

1. Whatever the structure of the taxes referred to in Article 3, Member States shall set the rates so as to ensure that the tax rate for each vehicle category or subcategory referred to in Annex I is not lower than the minimum laid down in that Annex.

Until two years after entry into force of the Directive, Greece, Italy, Portugal and Spain shall be authorised to apply rates that are lower than, but not less than, 65 % of the minima laid down in Annex I.

2. Member States may apply reduced rates or exemptions for:

(a) vehicles used for national or civil defence purposes, by fire and other emergency services and by the police, and vehicles used for road maintenance;

(b) vehicles which travel only occasionally on the public roads of the Member State of registration and are used by natural or legal persons whose main occupation is not the carriage of goods, provided that the transport operations carried out by these vehicles do not cause distortions of competition, and subject to the Commission's agreement.

3. (a) The Council, acting unanimously on a proposal from the Commission, may authorise a Member State to maintain further exemptions from or reductions in taxes on vehicles on the grounds of specific policies of a socio-economic nature or linked to that State's infrastructure. Such exemptions or reductions may apply only to vehicles registered in that Member State which carry out transport operations exclusively inside a well-defined part of its territory.

(b) Any Member State wishing to maintain such an exemption or reduction shall inform the Commission thereof and shall also forward to it all necessary information. The Commission shall inform the other Member States of the proposed exemption or reduction within one month.

The Council shall be deemed to have authorised maintenance of the proposed exemption or reduction if, within a period of two months from the date on which the other Member States were informed in accordance with the first subparagraph, neither the Commission nor any Member State has requested that the matter be examined by the Council.

4. Without prejudice to the second subparagraph of paragraph 1 and to paragraphs 2 and 3 of this Article or to Article 6 of Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States(11), Member States may not grant any exemption from, or any reduction in, the taxes referred to in Article 3 which would render the chargeable tax lower than the minimum referred to in paragraph 1 of this Article.

## CHAPTER III

### Tolls and user charges

#### Article 7

1. Member States may maintain or introduce tolls and/or user charges under the conditions set out in paragraphs 2 to 10.

2. (a) Toll and user charges shall be imposed only on users of motorways or other multi-lane roads with characteristics similar to motorways, or users of bridges, tunnels and mountain passes.

However, in a Member State where no general network of motorways or dual carriageways with similar characteristics exists, tolls and user charges may be imposed in that State on users of the highest category of road from the technical point of view.

(b) Following consultations with the Commission, and in accordance with the procedure laid down in the Council Decision of 21 March 1962 instituting a procedure for prior examination and consultation in respect of certain laws, regulations and administrative provisions concerning transport proposed in Member States(12),

(i) tolls and user charges may also be imposed on users of other sections of the primary road network, particularly

- where there are safety reasons for doing so,

- in a Member State where no coherent network of motorways or dual carriageways with similar characteristics exists in the major part of the State, in that part of the country, but only on roads used for international and interregional heavy goods transport, provided that the traffic demand and population density do not economically justify the construction of motorways or of dual carriageway roads with similar characteristics;

(ii) special arrangements for border areas may be made by the Member States concerned;

(iii) Austria may exempt from the Austrian user charge the stretch of motorway between Kufstein and Brenner.

3. Toll and user charges may not both be imposed at the same time for the use of a single road section. However, Member States may also impose tolls on networks where user charges are levied for the use of bridges, tunnels, and mountain passes.

4. Tolls and user charges may not discriminate, directly or indirectly, on the grounds of the nationality of the haulier or the origin or destination of the vehicle.

5. 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 avoid any mandatory controls or checks at the Community's internal borders. To this end, Member States shall cooperate in establishing methods for enabling hauliers to pay user charges 24 hours a day, at least at the major sales outlets, using all common means of payment, inside and outside the Member States in which they are applied. Member States shall provide adequate facilities at the points of payment for tolls and user charges so as to maintain normal road-safety standards.

6. A Member State may provide that vehicles registered in that Member State shall be subject to user charges for the use of the whole road network in its territory.

7. User charges, including administrative costs, for all vehicle categories shall be set by the Member State concerned at a level which is not higher than the maximum rates laid down in Annex II.

On 1 July 2002 and every second year thereafter these maximum rates shall be reviewed. When necessary, the Commission shall make proposals for appropriate adjustments and the European Parliament and the Council shall act on them, in accordance with the conditions laid down in the Treaty.

Member States applying a user charge shall, until two years after entry into force of this Directive, apply a 50 % reduction in the rates of user charges for vehicles registered in Greece because of its geopolitical position. The Commission may decide to authorise an extension of this reduction by these Member States from year to year.

8. User-charge rates shall be in proportion to the duration of the use made of the infrastructure.

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

9. The weighted average tolls shall be related to the costs of constructing, operating and developing the infrastructure network concerned.

10. Without prejudice to the weighted average tolls referred to in paragraph 9, Member States may vary the rates at which tolls are charged according to:

(a) vehicle emission classes, provided that no toll is more than 50 % above the toll charged for equivalent vehicles meeting the strictest emission standards;

(b) time of day, provided that no toll is more than 100 % above the toll charged during the cheapest period of the day.

Any variation in tolls charged with respect to vehicle emission classes or the time of day shall be proportionate to the objective pursued.

## Article 8

1. Two or more Member States may cooperate in introducing a common system for user charges applicable to their territories as a whole. In that case, those Member States shall ensure that the Commission is closely involved therein and in the system's subsequent operation and possible amendment.

2. A common system shall be subject to the following conditions in addition to those in Article 7:

- (a) 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 7(7);
- (b) payment of the common user charge shall give access to the network as defined by the participating Member States in accordance with Article 7(2);
- (c) other Member States may join the common system;
- (d) a scale shall be worked out by the participating Member States whereby each of them shall receive a fair share of the revenues accruing from the user charge.

## CHAPTER IV

### Final provisions

#### Article 9

1. This Directive shall not prevent the application by Member States of:

(a) specific taxes or charges:

- levied upon registration of the vehicle, or
- imposed on vehicles or loads of abnormal weights or dimensions;

(b) parking fees and specific urban traffic charges;

(c) regulatory charges specifically designed to combat time and place-related traffic congestion.

2. Neither shall this Directive prevent the Member States from attributing to environmental protection and the balanced development of transport networks a percentage of the amount of the user charge, or of the toll, provided that this amount is calculated in accordance with Article 7(7) and (9).

#### Article 10

1. For the purpose of this Directive, the rates of exchange between the euro and the national currencies of the Member States which have not adopted the euro shall be those in force on the first working day of October and published in the Official Journal of the European Communities; they shall have effect from 1 January of the following calendar year.

2. Member States which have not adopted the euro may maintain the amounts in force at the time of the annual adjustment made pursuant to paragraph 1 if the conversion of the amounts expressed in euro would result in a change of less than 5 % when expressed in national currencies.

#### Article 11

1. By the dates referred to in the second subparagraph of Article 7(7), the Commission shall present a report to the European Parliament and the Council on the implementation of this Directive, taking account of developments in technology and traffic congestion.

2. Member States shall forward the necessary information to the Commission no later than six months before the dates referred to in paragraph 1 in order to enable the Commission to draw up the above report.

3. Member States introducing electronic toll and/or user-charging systems shall cooperate with the aim of achieving an appropriate level of interoperability.



## Article 12

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 July 2000. They shall forthwith inform the Commission thereof.

When Member States adopt such measures, they shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such a reference shall be adopted by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of domestic law which they adopt in the field covered by this Directive. The Commission shall inform the other Member States thereof.

## Article 13

This Directive shall enter into force on the day of its publication in the Official Journal of the European Communities.

## Article 14

This Directive is addressed to the Member States.

Done at Luxembourg, 17 June 1999.

For the European Parliament

The President

J. M. GIL-ROBLES

For the Council

The President

F. MÜNTEFERING

(1) OJ C 59, 26.2.1997, p. 9.

(2) OJ C 206, 7.7.1997, p. 17.

(3) Opinion delivered on 3 June 1999 (not yet published in the Official Journal).

(4) Opinion of the European Parliament of 17 July 1997 (OJ C 286, 22.9.1997, p. 217), Council Common Position of 18 January 1999 (OJ C 58, 1.3.1999, p. 1) and Decision of the European Parliament of 7 May 1999 (not yet published in the Official Journal).

(5) OJ L 316, 31.10.1992, p. 12. Directive as last amended by Directive 94/74/EC (OJ L 365, 31.12.1994, p. 46).

(6) OJ L 316, 31.10.1992, p. 19. Directive as amended by Directive 94/74/EC. [1995] ECR I-1827.

(7) OJ L 36, 9.2.1988, p. 33. Directive as last amended by Directive 96/1/EC (OJ L 40, 17.2.1996, p. 1).

(8) OJ L 279, 12.11.1993, p. 32.

(9) OJ L 359, 31.12.1998, p. 1.

(10) OJ L 36, 9.2.1988, p. 33. Directive as last amended by Directive 96/1/EC (OJ L 40, 17.2.1996, p. 1).

(11) OJ L 368, 17.12.1992, p. 38.

(12) OJ 23, 3.4.1962, p. 720/62. Decision as last amended by Decision 73/402/EEC (OJ L 347, 17.12.1973, p. 48).

## ANNEX I

### MINIMUM RATES OF TAX TO BE APPLIED TO VEHICLES

>TABLE>

>TABLE>

## ANNEX II

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

#### Annual

>TABLE>

#### Monthly and weekly

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

#### Daily

The daily user charge is equal for all vehicle categories and amounts to EUR 8.