



9 March 2018

Dear [European Commission],

I am writing to you as a follow-up to the meeting of the Motor Vehicle Working Group held on 8 February 2018.

During the meeting, ETSC welcomed the announcement that the 'Article 20' procedure would be reviewed and that a new framework as well as guidelines to Member States were considered in order to harmonise future requests.

As a NGO promoting road safety, ETSC is concerned over the total lack of transparency surrounding the current 'Article 20' procedure. No information is made available regarding which manufacturer and system are concerned by the exemption, nor are the minutes of the discussions in the Technical Committee – Motor Vehicles (TCMV) detailed enough to be considered transparent.

We are especially concerned as many exemptions are likely to be requested as more manufacturers begin offering new driver assistance systems and automated features. This highlights the need for a comprehensive review of the type approval procedures, particularly given the impending advent of automated driving features that provide Level 3 and Level 4 support, which would include the offering of hands-off driving.

ETSC would like to see the exemption process to be used as a short-term solution, pending a more comprehensive approach. This is because the current approach adds to the risk of different manufacturers offering very different systems and HMI with consequent user confusion.

In the meantime, ETSC welcomes the Commission's statement that making the procedure more transparent would be taken into account when the new Article 20 framework and guidelines are prepared. We acknowledge, as the Commission has pointed out during the MVWG meeting, that the procedure involves detailed information which is considered sensitive from a manufacturer's competitiveness point of view.

Taking into account this sensitivity, ETSC calls on the Commission to ensure that the following points are included in the new 'Article 20' procedure:

*Regarding the transparency of the Commission Implementing Decision:*

- (1) **The manufacturer and (advanced) driver assist system concerned by the exemption should be publicly listed in the Commission Implementing Decision's Annex.** Manufacturers submit type approval requests with the intent to market systems and vehicles, and customers should be able to know which systems are type approved despite not having been checked against established EU requirements and test procedures.
- (2) **Full details of the testing regime that has been applied should be mentioned in the Commission Implementing Decision.** We welcome that the recent Commission Implementing Decisions on exemptions concerning steering equipment, up to C(2017)4736, included statements in the recitals that the system was compliant with the requirements of a draft version of an update to UNECE Regulation No 79. Given the progress at UNECE level, we would nevertheless welcome if the draft version is further specified by providing a document number or by providing the draft text as an Annex to the Commission Implementing Decision, in order to be able to identify against which draft version the system has been tested.

In case decisions are based on requirements and tests which are not similar to parts of (draft) UNECE Regulations, we call on the Commission to include, as an Annex to the Commission Implementing Decision, a detailed description of the test procedures and requirements applied.

*Regarding the transparency of the procedure in the TCMV:*

- (3) **Ensure that the draft Implementing Decisions concerning Article 20 exemptions are publicly available from the start of the discussions in the TCMV.** These documents are currently not publicly available and the adopted Decisions are only published months after the approval by the TCMV. We therefore call for redacted draft Implementing Decisions, taking into account points (1) and (2), to already be made available on the Comitology Register/CIRCABC a few days prior to the meetings during which they are discussed.
- (4) **Include in the meeting's minutes more details on safety related issues discussed by the TCMV during the discussions on Article 20 exemption(s).** These details are currently not included in the minutes, or are only included in the minutes of later meetings.
- (5) **Accompany the Commission Implementing Decision or TCMV voting sheet with a document by the TCMV setting out why they consider the system to be safe.** This would greatly increase transparency as well as user trust in the system, especially in cases where the concerned system cannot be tested against draft UNECE requirements or where the concerned system does not meet draft UNECE requirements.

The abovementioned information would allow the public to understand why the system is considered safe, without the need to publish sensitive technical details.

I would be happy to further explain or discuss our position in a meeting, either in person or over the telephone.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Antonio Avenoso". The signature is fluid and cursive, with a long horizontal stroke at the end.

Antonio Avenoso, Executive Director  
European Transport Safety Council