

I

(Legislative acts)

DIRECTIVES

DIRECTIVE 2010/40/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 7 July 2010

on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport*(Text with EEA relevance)*

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 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having consulted the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

(1) The increase in the volume of road transport in the Union associated with the growth of the European economy and mobility requirements of citizens is the primary cause of increasing congestion of road infrastructure and rising energy consumption, as well as a source of environmental and social problems.

(2) The response to those major challenges cannot be limited to traditional measures, inter alia the expansion of the existing road transport infrastructure. Innovation will have a major role to play in finding appropriate solutions for the Union.

(3) Intelligent Transport Systems (ITS) are advanced applications which without embodying intelligence as such aim to provide innovative services relating to different modes of transport and traffic management and enable various users to be better informed and make safer, more coordinated and 'smarter' use of transport networks.

(4) ITS integrate telecommunications, electronics and information technologies with transport engineering in order to plan, design, operate, maintain and manage transport systems. The application of information and communication technologies to the road transport sector and its interfaces with other modes of transport will make a significant contribution to improving environmental performance, efficiency, including energy efficiency, safety and security of road transport, including the transport of dangerous goods, public security and passenger and freight mobility, whilst at the same time ensuring the functioning of the internal market as well as increased levels of competitiveness and employment. However, ITS applications should be without prejudice to matters concerning national security or which are necessary in the interest of defence.

(5) Advances in the field of the application of information and communication technologies to other modes of transport should now be reflected in developments in the road transport sector, in particular with a view to ensuring higher levels of integration between road transport and other modes of transport.

(6) In some Member States national applications of these technologies are already being deployed in the road transport sector. However, such deployment remains fragmented and uncoordinated and cannot provide geographical continuity of ITS services throughout the Union and at its external borders.

⁽¹⁾ OJ C 277, 17.11.2009, p. 85.

⁽²⁾ Position of the European Parliament of 23 April 2009 (not yet published in the Official Journal), position of the Council of 10 May 2010 (not yet published in the Official Journal), position of the European Parliament of 6 July 2010 (not yet published in the Official Journal).

- (7) To ensure a coordinated and effective deployment of ITS within the Union as a whole, specifications, including, where appropriate, standards, defining further detailed provisions and procedures should be introduced. Before adopting any specifications, the Commission should assess their compliance with certain defined principles set out in Annex II. Priority should be given in the first instance to the four main areas of ITS development and deployment. Within those four areas, priority actions should be established for the development and use of specifications and standards. During further implementation of ITS the existing ITS infrastructure deployed by a particular Member State should be taken into account in terms of technological progress and financial efforts made.
- (8) When a legislative act is adopted as referred to in the second subparagraph of Article 6(2) of this Directive, the second sentence of Article 5(1) should be amended accordingly.
- (9) The specifications should, inter alia take into account and build upon the experience and results already obtained in the field of ITS, notably in the context of the eSafety initiative, launched by the Commission in April 2002. The eSafety Forum was established by the Commission under that initiative to promote and further implement recommendations to support the development, deployment and use of eSafety systems.
- (10) Vehicles which are operated mainly for their historical interest and were originally registered and/or type-approved and/or put into service before the entry into force of this Directive and of its implementing measures should not be affected by the rules and procedures laid down in this Directive.
- (11) ITS should build on interoperable systems which are based on open and public standards and available on a non-discriminatory basis to all application and service suppliers and users.
- (12) The deployment and use of ITS applications and services will entail the processing of personal data. Such processing should be carried out in accordance with Union law, as set out, in particular, in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ⁽¹⁾ and in Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector ⁽²⁾, inter alia, the principles of purpose limitation and data minimisation should be applied to ITS applications.
- (13) Anonymisation as one of the principles of enhancing individuals' privacy should be encouraged. As far as data protection and privacy related issues in the field of ITS applications and services deployment are concerned, the Commission should, as appropriate, further consult the European Data Protection Supervisor and request an opinion of the Working Party on the Protection of Individuals with regard to the Processing of Personal Data established by Article 29 of Directive 95/46/EC.
- (14) The deployment and use of ITS applications and services, and notably traffic and travel information services, will entail the processing and use of road, traffic and travel data forming part of documents held by public sector bodies of the Member States. Such processing and use should be carried out in accordance with Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information ⁽³⁾.
- (15) In appropriate cases, the specifications should include detailed provisions laying down the procedure governing assessment of conformity or suitability for use of constituents. Those provisions should be based on Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products ⁽⁴⁾, in particular concerning the modules for the various phases of the conformity assessment procedures. Directive 2007/46/EC of the European Parliament and of the Council ⁽⁵⁾ already establishes a framework for the type approval of motor vehicles and their parts or related equipment, and Directive 2002/24/EC of the European Parliament and of the Council ⁽⁶⁾ and Directive 2003/37/EC of the European Parliament and of the Council ⁽⁷⁾ lay down rules on the type approval of two or three-wheel motor vehicles, and agricultural or forestry tractors and their parts or related equipment. Therefore, it would be a duplication of work to provide for conformity assessment of equipment and applications falling within the scope of those Directives. At the same time, although those Directives apply to ITS-related equipment installed in vehicles, they do not apply to external road infrastructure ITS equipment and software. In such cases, the specifications could provide for conformity assessment procedures. Such procedures should be limited to what would be necessary in each separate case.

⁽¹⁾ OJ L 281, 23.11.1995, p. 31.

⁽²⁾ OJ L 201, 31.7.2002, p. 37.

⁽³⁾ OJ L 345, 31.12.2003, p. 90.

⁽⁴⁾ OJ L 218, 13.8.2008, p. 82.

⁽⁵⁾ OJ L 263, 9.10.2007, p. 1.

⁽⁶⁾ OJ L 124, 9.5.2002, p. 1.

⁽⁷⁾ OJ L 171, 9.7.2003, p. 1.

- (16) For ITS applications and services for which accurate and guaranteed timing and positioning services are required, satellite-based infrastructures or any technology providing an equivalent level of precisions should be used, such as those provided for in Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations ⁽¹⁾ and Regulation (EC) No 683/2008 of the European Parliament and of the Council of 9 July 2008 on the further implementation of the European satellite navigation programmes (EGNOS and Galileo) ⁽²⁾.
- (17) Innovative technologies such as Radio Frequency Identification Devices (RFID) or EGNOS/Galileo should be used for the realisation of ITS applications, notably for the tracking and tracing of freight along its journey and across modes of transport.
- (18) Major stakeholders such as ITS service providers, associations of ITS users, transport and facilities operators, representatives of the manufacturing industry, social partners, professional associations and local authorities should have the possibility to advise the Commission on the commercial and technical aspects of the deployment of ITS within the Union. For this purpose the Commission, ensuring close cooperation with stakeholders and Member States, should set up an ITS advisory group. The work of the advisory group should be carried out in a transparent manner and the result should be made available to the Committee established by this Directive.
- (19) Uniform conditions of implementation should be ensured for the adoption of guidelines and non-binding measures to facilitate Member States cooperation in respect of priority areas on ITS as well as in respect of guidelines for reporting by the Member States and of a working programme.
- (20) According to Article 291 of the Treaty on the Functioning of the European Union (TFEU), rules and general principles concerning mechanisms for the control by Member States of the Commission's exercise of implementing powers shall be laid down in advance by a regulation adopted in accordance with the ordinary legislative procedure. Pending the adoption of that new regulation, Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽³⁾ continues to apply, with the exception of the regulatory procedure with scrutiny, which is not applicable.
- (21) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the TFEU in respect of the adoption of specifications. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.
- (22) In order to guarantee a coordinated approach, the Commission should ensure coherence between the activities of the Committee established by this Directive and those of the Committee established by Directive 2004/52/EC of the European Parliament and of the Council of 29 April 2004 on the interoperability of electronic road toll systems in the Community ⁽⁴⁾, the Committee established by Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport ⁽⁵⁾, the Committee established by Directive 2007/46/EC and the Committee established by Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) ⁽⁶⁾.
- (23) Since the objective of this Directive, namely to ensure the coordinated and coherent deployment of interoperable Intelligent Transport Systems throughout the Union cannot be sufficiently achieved by the Member States and/or the private sector and can therefore, by reason of its scale and effects, 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 in order to achieve that objective.
- (24) In accordance with point 34 of the Interinstitutional Agreement on better law-making, Member States are encouraged to draw up, for themselves and in the interest of the Union, their own tables, which will, as far as possible, illustrate the correlation between this Directive and the transposition measures, and to make them public.

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Subject matter and scope

1. This Directive establishes a framework in support of the coordinated and coherent deployment and use of Intelligent Transport Systems (ITS) within the Union, in particular across the borders between the Member States, and sets out the general conditions necessary for that purpose.
2. This Directive provides for the development of specifications for actions within the priority areas referred to in Article 2, as well as for the development, where appropriate, of necessary standards.
3. This Directive shall apply to ITS applications and services in the field of road transport and to their interfaces with other modes of transport without prejudice to matters concerning national security or necessary in the interest of defence.

⁽¹⁾ OJ L 3, 5.1.2005, p. 1.

⁽²⁾ OJ L 196, 24.7.2008, p. 1.

⁽³⁾ OJ L 184, 17.7.1999, p. 23.

⁽⁴⁾ OJ L 166, 30.4.2004, p. 124.

⁽⁵⁾ OJ L 370, 31.12.1985, p. 8.

⁽⁶⁾ OJ L 108, 25.4.2007, p. 1.

*Article 2***Priority areas**

1. For the purpose of this Directive the following shall constitute priority areas for the development and use of specifications and standards:

- I. Optimal use of road, traffic and travel data,
- II. Continuity of traffic and freight management ITS services,
- III. ITS road safety and security applications,
- IV. Linking the vehicle with the transport infrastructure.

2. The scope of the priority areas is specified in Annex I.

*Article 3***Priority actions**

Within the priority areas the following shall constitute priority actions for the development and use of specifications and standards, as set out in Annex I:

- (a) the provision of EU-wide multimodal travel information services;
- (b) the provision of EU-wide real-time traffic information services;
- (c) data and procedures for the provision, where possible, of road safety related minimum universal traffic information free of charge to users;
- (d) the harmonised provision for an interoperable EU-wide eCall;
- (e) the provision of information services for safe and secure parking places for trucks and commercial vehicles;
- (f) the provision of reservation services for safe and secure parking places for trucks and commercial vehicles.

*Article 4***Definitions**

For the purposes of this Directive, the following definitions shall apply:

- (1) 'Intelligent Transport Systems' or 'ITS' means systems in which information and communication technologies are applied in the field of road transport, including infrastructure, vehicles and users, and in traffic management and mobility management, as well as for interfaces with other modes of transport;

- (2) 'interoperability' means the capacity of systems and the underlying business processes to exchange data and to share information and knowledge;
- (3) 'ITS application' means an operational instrument for the application of ITS;
- (4) 'ITS service' means the provision of an ITS application through a well-defined organisational and operational framework with the aim of contributing to user safety, efficiency, comfort and/or to facilitate or support transport and travel operations;
- (5) 'ITS service provider' means any provider of an ITS service, whether public or private;
- (6) 'ITS user' means any user of ITS applications or services including travellers, vulnerable road users, road transport infrastructure users and operators, fleet managers and operators of emergency services;
- (7) 'vulnerable road users' means non-motorised road users, such as pedestrians and cyclists as well as motor-cyclists and persons with disabilities or reduced mobility and orientation;
- (8) 'nomadic device' means a portable communication or information device that can be brought inside the vehicle to support the driving task and/or the transport operations;
- (9) 'platform' means an on-board or off-board unit enabling the deployment, provision, exploitation and integration of ITS applications and services;
- (10) 'architecture' means the conceptual design that defines the structure, behaviour and integration of a given system in its surrounding context;
- (11) 'interface' means a facility between systems which provides the media through which they can connect and interact;
- (12) 'compatibility' means the general ability of a device or system to work with another device or system without modification;
- (13) 'continuity of services' means the ability to ensure seamless services on transport networks across the Union;
- (14) 'road data' means data on road infrastructure characteristics, including fixed traffic signs or their regulatory safety attributes;
- (15) 'traffic data' means historic and real-time data on road traffic characteristics;

- (16) 'travel data' means basic data such as public transport timetables and tariffs, necessary to provide multi-modal travel information before and during the trip to facilitate travel planning, booking and adaptation;
- (17) 'specification' means a binding measure laying down provisions containing requirements, procedures or any other relevant rules;
- (18) 'standard' means standard as defined in Article 1(6) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations ⁽¹⁾.

Article 5

Deployment of ITS

1. Member States shall take the necessary measures to ensure that the specifications adopted by the Commission in accordance with Article 6 are applied to ITS applications and services, when these are deployed, in accordance with the principles in Annex II. This is without prejudice to the right of each Member State to decide on its deployment of such applications and services on its territory. This right is without prejudice to any legislative act adopted under the second subparagraph of Article 6(2).

2. Member States shall also make efforts to cooperate in respect of the priority areas, insofar as no specifications have been adopted.

Article 6

Specifications

1. The Commission shall first adopt the specifications necessary to ensure the compatibility, interoperability and continuity for the deployment and operational use of ITS for the priority actions.

2. The Commission shall aim at adopting specifications for one or more of the priority actions by 27 February 2013.

At the latest 12 months after the adoption of the necessary specifications for a priority action, the Commission shall, where appropriate, after conducting an impact assessment including a cost-benefit analysis, present a proposal to the European Parliament and the Council in accordance with Article 294 of the TFEU on the deployment of that priority action.

3. Once the necessary specifications for the priority actions have been adopted, the Commission shall adopt specifications

ensuring compatibility, interoperability and continuity for the deployment and operational use of ITS for other actions in the priority areas.

4. Where relevant, and depending on the area covered by the specification, the specification shall include one or more of the following types of provisions:

- (a) functional provisions that describe the roles of the various stakeholders and the information flow between them;
- (b) technical provisions that provide for the technical means to fulfil the functional provisions;
- (c) organisational provisions that describe the procedural obligations of the various stakeholders;
- (d) service provisions that describe the various levels of services and their content for ITS applications and services.

5. Without prejudice to the procedures under Directive 98/34/EC the specifications shall, where appropriate, stipulate the conditions in which Member States may, after notification to the Commission, establish additional rules for the provision of ITS services on all or part of their territory, provided that those rules do not hinder interoperability.

6. The specifications shall, where appropriate, be based on any standards referred to in Article 8.

The specifications shall, as appropriate, provide for conformity assessment in accordance with Decision No 768/2008/EC.

The specifications shall comply with the principles set out in Annex II.

7. The Commission shall conduct an impact assessment including a cost-benefit analysis prior to the adoption of the specifications.

Article 7

Delegated acts

1. The Commission may adopt delegated acts in accordance with Article 290 of the TFEU as regards specifications. When adopting such delegated acts the Commission shall act in accordance with the relevant provisions of this Directive, in particular Article 6 and Annex II.

2. A separate delegated act shall be adopted for each of the priority actions.

3. For the delegated acts referred to in this Article, the procedure set out in Articles 12, 13 and 14 shall apply.

⁽¹⁾ OJ L 204, 21.7.1998, p. 37.

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