

【欧州】 【Common】 【自動車】

Common - Fit for 55 package/Road/Railway - New legal instruments on environment for vehicles: Council of the European Union adopts Regulation with 100% zero-emission target for newly registered cars and vans after 2035 - with recital on Delegated Act for e-fuel introduction

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【概要 : Summary】

Based on the EU' s European Green Deal of 2019 (COM/2019/640 final) to reach climate neutrality by 2050, also the GHG emissions of the transport sector need to be reduced by 90% by 2050. The European Climate Law of 2021 (Regulation (EU) 2021/1119) established the framework for achieving this target by reducing GHG emissions by 2030 by at least 55%. Accordingly, the European Commission presented the "Fit for 55" package on 14 July 2021, including a proposal to review the GHG emission standards of newly registered passenger cars and light-duty vehicles (vans) (COM (2021) 556 final).

This proposal includes a GHG emissions reduction target of at least 55% for the fleet-wide CO₂ emissions of passenger cars by 2030 compared to 1990 levels, and 50% for vans by 2035. It also sets a 100% CO₂ emissions reduction target for newly registered passenger cars and vans by 2035, based on 2021 levels. Thereby, as of 2035 all newly registered passenger cars and vans would have to be zero-emission vehicles. Considering the technologies that would allow to reach this

zero-emission target, the European Parliament supported a complete ban of combustion engines in newly registered passenger cars and vans by 2035, while the Council of the European Union favoured a technology-neutral approach.

On 27 October 2022, the Council and the European Parliament found a provisional political agreement, which included the 100% CO₂ emissions reduction target for newly registered passenger cars and vans by 2035. However, it also contained a recital clause, allowing new vehicles running on CO₂ neutral fuels. This would have allowed the introduction of vehicles with combustion engines beyond 2035, if they run exclusively on CO₂ neutral fuels, such as e-fuels. The trilogue agreement was approved by the European Parliament' s plenary on 14 February 2023, and the Council of the European Member States was expected to formally approve the legislative text on 7 March 2023 without further discussion. However, against usual procedures, although the 27 Member States had already provisionally agreed to the compromise text with the European Parliament on 27 October 2022, some Member States,

and most importantly Germany and Italy, withdrew their consent to the agreement due to the phasing out of combustion engines. They tied their approval to the precondition to allow new passenger cars and vans using combustion engines also beyond 2035, if they run on e-fuels.

This deadlock was only solved after the European Commission negotiated a compromise with the German government to introduce an extra Delegation Act on the utilisation of e-fuels beyond 2035. On 28 March 2023, the Council finally adopted the agreement and thereby, the last-minute rejection of the law was avoided.

However, although the Delegation Act will not need to pass through the normal legislative procedure and will not be debated in the European Parliament, it still will have to be approved as entire version by the EU institutions.

If this Delegated Act was rejected, the Commission would have to put forward an amendment to the planned regulation, which would then be subject to the usual legislative procedure, involving the Council and the Parliament. In such a scenario it remains unclear if the European Parliament would adopt such a revised version of the law. As the European Parliament's rapporteur on the dossier MEP Jan Huitema stated, the negotiated text of the political agreement would remain unchanged and "... future proposals concerning e-fuels will be thoroughly assessed, both on their content and their legal basis".

【記事 : Article】

1. Background of the proposal on amending Regulation (EU) 2019/631

Based on the commitments under the Paris Agreement and the European Green Deal (COM/2019/640 final) targets, the EU intends to reach climate neutrality by 2050 and a 90% reduction of GHG emissions from transport. To achieve these targets, the European Climate Law (Regulation (EU) 2021/1119) was introduced with a new GHG emission reduction target of reducing

GHG emissions by at least 55% by 2030, compared to 1990 levels. Therefore, Regulation (EU) 2019/631, which set new CO₂ emission performance standards for newly registered passenger cars and light commercial vehicles (vans) in the EU after the year 2020, had to be revised to set new CO₂ emissions performance standards (Regulation (EU) 2019/631, European Commission n.d., The European Parliament and the Council 2023). Accordingly, the European Commission presented the "Fit for 55" package on 14 July 2021 to deliver on the European Climate Law's target to reduce the GHG emissions by at least 55% by 2030, including a proposal for a Regulation to strengthen the CO₂ emission performance standards for new passenger cars and vans (COM(2021) 556 final, Regulation (EU) 2021/1119).

The "Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2019/631 as regards strengthening the CO₂ emission performance standards for new passenger cars and new light commercial vehicles in line with the Union's increased climate ambition" (COM(2021) 556 final) presents new CO₂ emission standards for new passenger cars and vans with a reduction target of at least 55% for the fleet-wide CO₂ emissions of passenger cars by 2030 compared to 1990 levels, and 50% for vans (COM(2021) 556 final). As of 2035 a 100% CO₂ emissions reduction target would be introduced, meaning that newly registered passenger cars and vans would be zero-emission vehicles only (European Parliament 2023a).

2. The European Parliament and the Council's positions

On 8 June 2022, the European Parliament's plenary adopted its position on the proposed revision of the CO₂ emissions performance standards for new passenger cars and vans (European Parliament 2022). The intermediate CO₂ emissions reduction targets for 2030 would be set at 55% for passenger cars and 50% for vans and

the European Parliament supported the 100% CO₂ emissions reduction target of 2035 to be reached for newly registered passenger cars and vans, compared to 2021 levels (European Parliament 2022). Thereby, the European Parliament plenary supported to limit the future sales of new passenger cars and vans to 100% emissions-free all-electric models.

On 29 June 2022, the EU's environment ministers agreed on a general approach on the proposal COM(2021) 556 final for setting new standards of CO₂ emissions for new passenger cars and vans. The Council agreed to raise the targets for reducing CO₂ emissions by 2030 for new passenger cars to 55% and to 50% for new vans. Furthermore, the Council agreed on introducing a 100% CO₂ emissions reduction target by 2035 for new passenger cars and vans, based on 2021 levels (Council of the EU 2022a). However, as different technologies are available to reach the zero-emission fleet wide target, the Council also added a recital clause to the legislative text for allowing to register vehicles running exclusively on CO₂ neutral fuels such as synthetic fuels (e-fuels), derived from the combination of hydrogen, electricity, and CO₂ captured from industrial processes (Council of the EU 2022a). In fact, the EU environment ministers agreed that the strengthened CO₂ emission reduction standards should be technology-neutral in reaching the fleet-wide targets since zero-emission vehicle solutions are available with different technologies including battery electric vehicles, fuel-cell and other hydrogen powered vehicles, and technological innovations are also continuing (Conseil de l'Union européenne 2022).

The clause in the recital 9a of the legislative text was tabled by Germany and was also supported by some other EU Member States, which were reluctant to accept the 2035 deadline for combustion engines (Council of the EU 2022a). In the view of the Council, if renewable energy is used for producing e-fuel, the fuel is considered

carbon neutral. Recital 9a states that “Following consultation with stakeholders, the Commission will make a proposal for registering after 2035 vehicles running exclusively on CO₂ neutral fuels in conformity with EU law, outside the scope of the fleet standards, and in conformity with the Union's climate neutrality objective” (Council of the EU 2022b, Conseil de l'Union européenne 2022). The phrase “outside the scope of the fleet standards” is being interpreted as a permission for special vehicles to use CO₂ neutral fuels (Conseil de l'Union européenne 2022, Council of the EU 2022a, Council of the EU 2022b).

Concluding, the Council insisted to maintain the technology neutrality to achieve the carbon neutrality target also by allowing to register vehicles running exclusively on CO₂ neutral fuels, such as e-fuels, derived from the combination of hydrogen, electricity, and CO₂ captured from industrial processes.

The recital clause would deviate from the approach to limiting future sales of new passenger cars and vans to emissions-free all-electric models and to completely abolishing combustion engines from 2035 onward, as supported by the European Parliament. It rather would keep an open approach towards all technologies that allow to achieve carbon neutrality from 2035 onwards if the fuel used is considered carbon neutral. After the Council had agreed its positions on the proposal COM(2021) 556 final, the trilogue negotiations with the European Parliament began to reach an agreement on the final legal text.

On 27 October 2022, the Council and the European Parliament reached their provisional political agreement on the proposal COM (2021) 556 final. They agreed on stricter CO₂ emission performance standards for new passenger cars and vans, including a 55% CO₂ emission reduction target for new passenger cars and 50% for new vans by 2030 compared to 2021 levels (Council of the EU 2022c).

They also agreed on the 100% CO₂ emission reduction target for both, new passenger cars and vans by 2035 (Council of the EU 2022c). However, the inclusion of e-fuels powered cars and other zero emission solutions remained a main issue of divergence between the European Parliament's and the Council's position and led to the addition of a derogation for CO₂ neutral fuels in the recitals of the new law (Council of the EU 2022b, 2022c). This recital had to be part of the final agreement, but the exception was meant to be applied "outside the scope of the fleet standards" (Council of the EU 2022b, 2022c).

After achieving this provisional political agreement in trilogue negotiations, the European Parliament and the Council had to formally adopt their agreement. Although the political agreement effectively meant that no new passenger cars with internal combustion engines would be allowed to be sold in the EU starting from 2035, the mentioning of e-fuelled cars in the non-binding part of recitals eventually became a most critical issue with the Council of the European Union (European Parliament 2022)

3. The Council's refusal of final approval and eventual compromise agreement

The trilogue agreement of the co-legislators of 27 October 2022 was then endorsed by the Member States at the Coreper meeting on 16 November 2022, and approved by the ENVI Committee on 1 December 2022. On 14 February 2023, the European Parliament's Plenary adopted the compromise agreement, and the Council of the European Member States was expected to formally endorse the legislative text on 7 March 2023 without further discussion. However, the Council of the European Union reconsidered its position due to the refusal of some EU Member States to agree to the complete phasing-out of vehicles with combustion engines by 2035. Especially, the German Federal Transport Minister Volker Wissing insisted that the European Commission should give a more

substantive commitments to passenger cars and vans with e-fuel powered combustion engines, beyond the already inserted recital clause and thereby put the legislative process into a deadlock (BMDV 2023).

4. The Delegated Act solution

Finally, on 28 March 2023, the Council of the European Union adopted the legislative text on the Regulation setting stricter CO₂ emission performance standards for newly registered passenger cars and vans (Council of the EU 2023a). The new rules set a 55% CO₂ emission reduction target for new passenger cars and 50% for new vans from 2030 to 2034 compared to 2021 levels. From 2035 onwards, a 100% CO₂ emission reduction target for both, new passenger cars and vans, will apply (Council of the EU 2023a). Furthermore, to accommodate the German and other Member States' viewpoint, the final regulation will also contain a recital 11 with reference to e-fuels, which replaced the tentative recital 9a of the political agreement between the European Parliament and the Council (Conseil de l'Union européenne 2022, Council of the EU 2023b). Thereby, based on the recital 11, the Commission states to be committed to a technologically neutral climate regulation with respect to the regulation of CO₂ emission standards for passenger cars and vans. Recital 11 is now the starting point for the Commission to submit an Implementing Regulation for type approvals of these vehicles, thereby setting up an evasion-proof type approval process for vehicles that are fuelled exclusively and in a permanent manner with RFNBOs (renewable liquid and gaseous fuels of non-biological origin) (Council of the EU 2023b). Following a consultation with stakeholders, the Commission will propose in line with the legal empowerment the Delegated Act specifying how e-fuels-only vehicles would contribute to the CO₂ emission reduction targets, which will allow to register vehicles running

exclusively on CO₂-neutral fuels after 2035 and in conformity with EU law, but outside the scope of the fleet standards (Council of the EU 2023a, The European Parliament and the Council 2023a). The regulation also includes a review clause for the Commission to assess the progress made towards achieving the 2035 100% emission reduction targets and the possible need to review them by 2026 (Council of the EU 2023a). The review will consider technological developments, including plug-in hybrid technologies and the importance of a viable and socially equitable transition towards zero emissions (Council of the EU 2023a).

After the Council's adoption of the text on 28 March 2023 as the final step of the decision-making procedure, the regulation will now be published in the EU's Official Journal and enter into force on the twentieth day following that of its publication (Council of the EU 2023a).

5. Reactions on the Council's adoption of the proposal

Finally, Germany supported the Council decision on the regulation on 28 March 2023, while Italy and Poland reject it. According to the Italian statement, the proposed regulation is not in line with the principle of technological neutrality and consequently, Italy cannot support it. Poland firmly opposes the adoption of this legislative act (Council of the EU 2023b). Finland underlined its agreement to the Commission the recital regarding registering vehicles running on CO₂-neutral fuels after 2035 (Council of the EU 2023b). However, if the Commission's Delegated Act can solve the deadlock regarding this legislation remains to be seen. Delegated Acts, which are used to cover highly technical issues, are not subject to debates in the European Parliament. Therefore, the Delegated Act will not need to pass through the normal legislative procedure, but it still will have to be approved as a whole dossier by the European Parliament and the

Council. In a reaction on the introduction of recital 11, as result of the deal between the European Commission and the German government, and the Commission's plan to deal with the e-fuels in a Delegated Act, the European Parliament's rapporteur on the file, Jan Huitema, stated that "The text to be voted remains unchanged and sets a clear target for 100% zero-emission new cars after 2035." (European Parliament 2023d). He also added that "Any possible future proposals concerning the use of e-fuels will be thoroughly assessed, both on their content and their legal basis." (European Parliament 2023c).

In fact, the European Parliament and/or the Member States could reject this Delegated Act. Then, the Commission would have to propose a revision of the new regulation on the new emission standards of new passenger cars and vans to implement the legal content of the Delegated Act, which would then be subject to the usual legislative co-decision procedure (Council of the EU 2023b, Council of the EU 2022d).

6. Conclusion

The Council's final agreement on the CO₂ emission performance standards for newly registered passenger cars and vans, including the 2035 target of reducing the CO₂ emissions by 100% marks an important step towards the adoption of the "Fit for 55" package and to prepare the EU's transition toward climate neutrality by 2050. During the legislative approval process, the Council's general approach seemed to be closer to the idea to keep a technology-neutral approach, whereas the European Parliament supported a complete ban of combustion engine vehicles from 2035 onwards. On 28 March 2023, the Council adopted the agreement only after the introduction of recital 11 into the regulation's text that envisages the preparation of a Delegated Act regarding the utilisation of e-fuels by the European Commission.

However, it is arguable whether the achievement of this loophole will lead to a solution of the related economic, ecologic, sustainable, and political problems and concerns.

Although some Member States insisted to maintain the option of the automobile industry to put e-fuel combustion engine powered passenger cars and vans on EU roads beyond 2035, it can be expected that the e-fuel powered cars might at that point become more expensive than equivalent electric vehicles. The production of e-fuels is complex and more energy intensive and they have a poor energy balance, as their production consumes an extremely large amount of electricity. The trend in road transport can be expected to continue mostly towards battery-electric vehicles, while e-fuel powered passenger cars and vans would become a niche product. Furthermore, it is also pointed out that the e-fuels, which are rather limited in their availability, should better be reserved for those transport means that cannot simply be decarbonised by electrification, like aircraft, ships, or even heavy-duty vehicles.

Regarding the political concerns, the European Parliament could be expected to continue to insist on the complete phasing out of combustion engines as stated in the currently adopted legislative text. Regarding the adoption of the Delegated Act, it remains to be seen if the European Parliament will adopt the Delegated Act in its entirety, although it would mean a deviation from the target to entirely phase out combustion engines. If the Delegated Act was rejected, the European Commission would have to table a revision of the CO₂ emission performance standards including the contents of the Delegated Act, which would be subject to the normal co-decision procedure between Parliament and Council. If such a proposal would be adopted by the European Parliament remains to be seen.

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