



Brussels, 29.5.2013  
COM(2013) 307 final

2013/0159 (NLE)

Proposal for a

**COUNCIL DECISION**

**on the application of Regulation No 41 of the United Nations Economic Commission for Europe on uniform provisions concerning the approval of motor cycles with regard to noise**

(Text with EEA relevance)

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

At international level, the United Nations Economic Commission for Europe (UNECE) develops harmonised requirements, intended to remove technical barriers to the trade in motor vehicles between the Contracting Parties to the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheel vehicles, equipment and parts which can be fitted to and/or be used on wheel vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions ('Revised 1958 Agreement')<sup>1</sup> and to ensure that such vehicles offer a high level of health, safety and environmental protection.

Regulation No 41 of the United Nations Economic Commission for Europe on uniform provisions concerning the approval of motor cycles with regard to noise<sup>2</sup> ('UNECE Regulation No 41') was recently brought up to the same level of environmental protection as obtained through Union type-approval legislation, which now allows the Union to start applying this UNECE Regulation. The objective of that Regulation is to establish equivalent provisions for sound control of motorcycles and clarifications to the stationary noise measurement test of such vehicles.

At EU level, Annex I to Directive 2002/24/EC of the European Parliament and of the Council relating to the type-approval of two or three-wheel motor vehicles<sup>3</sup>, referring to Chapter 9 of Annex I to Directive 97/24/EC on certain components and characteristics of two or three-wheel motor vehicles<sup>4</sup>, mandates the type approval for two and three-wheel motor vehicles, according to measurement procedures and limit values for sound levels as laid down in Annex I.

Now that Revision 4 of UNECE Regulation No 41 has been established, it is appropriate for the Union to apply said Regulation.

This Council Decision will authorise the Commission on behalf of the European Union to notify the application of UNECE Regulation No 41.

- **General context**

Chapter 9 of Annex I to Directive 97/24/EC lays down the basic requirements for certain components and characteristics of two or three-wheel motor vehicles with regard to their type approval. It was deemed necessary to set out the specific sound test procedures and requirements for such type-approval at EU level.

It is now envisaged for the European Union to apply UNECE Regulation No 41 in order to have common harmonised requirements at international level, which will facilitate

---

<sup>1</sup> OJ L 346, 17.12.1997, p. 78.

<sup>2</sup> UNECE Documents /TRANS/WP.29/2011/62 and OJ L 317, 14.11.2012, p. 1.

<sup>3</sup> OJ L 124, 9.5.2002, p. 1.

<sup>4</sup> OJ L 226, 18.8.1997, p. 1.

international trade and which will replace the existing approval requirements as set-out in Chapter 9 of Annex I to Directive 97/24/EC. This will enable European companies to follow one set of requirements recognised worldwide, i.e. in the countries/Contracting Parties to the Revised 1958 UNECE Agreement.

- **Existing provisions in the area of the proposal**

Chapter 9 of Annex I to Directive 97/24/EC contains requirements for the type-approval of two and three-wheel motor vehicles (L-category) with regard to their permissible sound level and exhaust system.

- **Consistency with the other policies and objectives of the Union**

The proposal is in line with the objectives of Directives 2002/24/EC and 97/24/EC and is therefore consistent with the EU health, safety and environmental objectives and the objective to make progress towards the international harmonisation of motorcycle legislation.

Furthermore, the proposal is in line with Council Decision 97/836/EC with a view to the application by the European Community of the Revised 1958 Agreement.

## **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

- **Consultation of interested parties**

In developing the proposal the European Commission has consulted stakeholders and stakeholder organisations. There was a general consultation on the envisaged approach as regards vehicle noise emissions in the framework of the ‘CARS 21’ process gathering Member States, manufacturers (European and national representatives and individual companies), component manufacturers, transport organisations and user representatives. The proposed approach with respect to the application of UNECE Regulation No 41 will also be presented in the Technical Committee – Motor Vehicles (TCMV), as well as in the Motorcycle Working Group meeting.

- **Impact assessment**

The application of UNECE Regulation No 41 does not lead to a revision of noise emission limits and/or thresholds, as currently set out in Directive 97/24/EC. Furthermore, the testing methods set out in UNECE Regulation No 41 are equivalent in scope and scientific approach to the ones provided for in Directive 97/24/EC. Therefore, the proposed application process is not expected to have societal, environmental and economic impact for the European Union or the EEA due to the overall equivalence of both the testing methods for noise emissions proposed, as well as the noise emission limits and thresholds involved.

Under the framework of the draft proposal for a Regulation (EU) No .../2012 of the European Parliament and of the Council on the approval and market surveillance of two- or three-wheel vehicles and quadricycles<sup>5</sup>, a cost-benefit analysis on noise and tampering in L-cat vehicles

---

<sup>5</sup> COM(2010) 542 final.

(two and three-wheel vehicles) was carried-out<sup>6</sup>, which signaled the deterioration of noise emission in L-category vehicles due to tampering. In this respect, UNECE Regulation No 41, apart from its equivalence to EU testing methods and noise emissions limit values, introduces cost-effective anti-tampering elements and measures, thus in full harmony with the on-going legislative initiative for L-cat vehicles.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

- **Summary of the proposed action**

The proposal will enable the Union to apply UNECE Regulation No 41 on noise emissions from motorcycles and replace the EU regional testing requirements with world-harmonised test procedures and requirements.

- **Legal basis**

Taking into consideration the the object and content of the Council Decision, the legal bases are Articles 114(1) and 207(4) TFEU. The procedure to be followed for the adoption of the Council Decision is the one laid down in Article 3(3) of Council Decision 97/836/EC.

- **Subsidiarity principle**

Sound requirements are already harmonised at EU level, but the relevant legislation is outdated and needs updating with respect to technical progress made since its adoption. The application of international instruments like equivalent UNECE Regulations and their incorporation into the EU system for the type-approval of motor vehicles can only be done by the European Union. This does not only prevent fragmentation of the Internal Market, but also ensures uniform health, safety and environmental standards across the Union. It also offers advantages derived from economies of scale: products can be made for the whole Union market and even for the international market, instead of being customised to obtain national type-approval for every single Member State.

The proposal therefore complies with the subsidiarity principle.

- **Proportionality principle**

The proposal complies with the proportionality principle as it does not go beyond what is necessary in order to achieve the objectives of ensuring the proper functioning of the Internal Market while at the same time providing for a high level of public safety and environmental protection.

- **Choice of instruments**

Proposed instrument: Council Decision.

The use of a Council Decision is considered to be appropriate as in line with the requirements of Article 3(3) of Council Decision 97/836/EC.

---

<sup>6</sup> Report pending revision and adoption by the Commission.

#### **4. BUDGETARY IMPLICATION**

The proposal has no implication for the Union budget.

#### **5. OPTIONAL ELEMENTS**

- **European Economic Area**

The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

2013/0159 (NLE)

Proposal for a

## COUNCIL DECISION

**on the application of Regulation No 41 of the United Nations Economic Commission for Europe on uniform provisions concerning the approval of motor cycles with regard to noise**

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 114(1) and 207(4) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament<sup>7</sup>,

Whereas:

- (1) By Council Decision 97/836/EC of 27 November 1997 the Union acceded to the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions ('Revised 1958 Agreement')<sup>8</sup>.
- (2) The harmonised requirements of Regulation No 41 of the Economic Commission for Europe of the United Nations (UN/ECE) — Uniform provisions concerning the approval of motor cycles with regard to noise<sup>9</sup> ('UNECE Regulation No 41') are intended to remove technical barriers to the trade in motor vehicles between the Contracting Parties to the Revised 1958 Agreement and to ensure that such vehicles offer a high level of safety and protection.
- (3) Directive 2002/24/EC of the European Parliament and of the Council of 18 March 2002 relating to the type-approval of two or three-wheel motor vehicles and repealing Council

---

<sup>7</sup> Consent of ...

<sup>8</sup> OJ L 346, 17.12.1997, p. 78.

<sup>9</sup> OJ L 317, 14.11.2012, p. 1.

Directive 92/61/EEC<sup>10</sup> and Directive 97/24/EC of the European Parliament and of the Council of 17 June 1997 on certain components and characteristics of two or three-wheel motor vehicles<sup>11</sup> and its implementing measures mandate the adoption of permissible sound levels, exhaust systems and testing procedures of two and three-wheel motor vehicles.

- (4) Chapter 9 of Annex I to Directive 97/24/EC contains requirements for the type-approval of L-category vehicles with regard to their permissible sound level and exhaust system.

L-category vehicles is the family name of light vehicles such as powered cycles, two or three-wheel mopeds, motor cycles with and without sidecar, tricycles and quadricycles.

- (5) At the date of its accession to the Revised 1958 Agreement, the Union acceded to a limited number of UNECE Regulations listed in Annex II to Decision 97/836/EC; UNECE Regulation No 41 was not included in that list.
- (6) As provided for in Article 3(3) of Decision 97/836/EC, and pursuant to Article 1(7) of the Revised 1958 Agreement, the Union may, decide to apply one, some or all of the UNECE Regulations to which it has not acceded at the time of its accession to the Revised 1958 Agreement. The Decision should be adopted by the Council on receiving the consent of the European Parliament.
- (7) It is now appropriate for the European Union to apply UNECE Regulation No 41 in order to have common harmonised requirements at international level, which will facilitate international trade and which will replace the existing approval requirements set-out in Chapter 9, Annex I of Directive 97/24/EC. This will enable European companies to follow one set of requirements recognised worldwide, in particular in the countries and/or Contracting Parties to the Revised 1958 UNECE Agreement,

HAS ADOPTED THIS DECISION:

#### *Article 1*

The European Union shall apply Regulation No 41 of the United Nations Economic Commission for Europe on uniform provisions concerning the approval of motor cycles with regard to noise.

#### *Article 2*

This Decision shall enter into force on the day following its publication in the *Official Journal of the European Union*.

---

<sup>10</sup> OJ L 124, 9.5.2002, p. 1.

<sup>11</sup> OJ L 226, 18.8.1997, p. 1.

*Article 3*

This Decision shall be notified by the Commission to the Secretary-General of the United Nations.

Done at Brussels,

*For the Council  
The President*