

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)

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

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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.
- (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⁽³⁾ and in

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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⁽⁴⁾, 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⁽⁵⁾.
- (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⁽⁶⁾, 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⁽⁷⁾ 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⁽⁸⁾ and Directive 2003/37/EC of the European Parliament and of the Council⁽⁹⁾ 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.
- (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⁽¹⁰⁾ 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)⁽¹¹⁾.
- (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.

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- (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⁽¹²⁾ 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⁽¹³⁾, the Committee established by Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport⁽¹⁴⁾, 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)⁽¹⁵⁾.
- (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.

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- (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:

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- (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).
- (3) OJ L 281, 23.11.1995, p. 31.
- (4) OJ L 201, 31.7.2002, p. 37.
- (5) OJ L 345, 31.12.2003, p. 90.
- (6) OJ L 218, 13.8.2008, p. 82.
- (7) OJ L 263, 9.10.2007, p. 1.
- (8) OJ L 124, 9.5.2002, p. 1.
- (9) OJ L 171, 9.7.2003, p. 1.
- (10) OJ L 3, 5.1.2005, p. 1.
- (11) OJ L 196, 24.7.2008, p. 1.
- (12) OJ L 184, 17.7.1999, p. 23.
- (13) OJ L 166, 30.4.2004, p. 124.
- (14) OJ L 370, 31.12.1985, p. 8.
- (15) OJ L 108, 25.4.2007, p. 1.