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Publication | 21.10.2015

Emission measurements in the automotive sector

Greens/EFA motion for resolution

Tabled by ***Bas Eickhout, Karima Delli, Benedek Jávor, Jean Lambert, Ernest Maragall, Jordi Sebastià, Molly Scott Cato, Keith Taylor, Claude Turmes*** *on behalf of the Greens/EFA Group*

The European Parliament,

– having regard to the question to the Commission on emission measurements in the automotive sector (O-000113/2015 – B8-0764/2015),

– having regard to Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information(1),

– having regard to Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles(2),

– having regard to Directive 2001/81/EC of the European Parliament and of the Council of 23 October 2001 on national emission ceilings for certain atmospheric pollutants(3),

– having regard to Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe(4),

– having regard to Regulation (EU) No 333/2014 of the European Parliament and of the Council of 11 March 2014 amending Regulation (EC) No 443/2009 to define the modalities for reaching the 2020 target to reduce CO2 emissions from new passenger cars(5),

– having regard to Rules 128(5) and 123(2) of its Rules of Procedure,

A. whereas on 18 September 2015 the US federal Environmental Protection Agency (EPA) and the California Air Resources Board (CARB) issued a notice of violation of the applicable pollution rules to Volkswagen AG, Audi AG and Volkswagen Group of America (collectively known as ‘VW’); whereas the

investigation began following research on nitrogen oxide (NOx) emissions from diesel vehicles, conducted by the International Council on Clean Transportation (ICCT) and submitted to the EPA and the CARB in May 2014;

B. whereas the ICCT research results were available to the European Commission and to national type approval authorities (TAAs) at the same time as they were to the US authorities;

C. whereas the Euro 5 and 6 Regulation on passenger vehicle emission limits (Regulation (EC) No 715/2007) requires manufacturers to equip vehicles so that they meet the emission requirements 'in normal use' (Article 5(1)) and explicitly prohibits the use of defeat devices (Article 5(2)), defined as 'any element of design which senses temperature, vehicle speed, engine speed (RPM), transmission gear, manifold vacuum or any other parameter for the purpose of activating, modulating, delaying or deactivating the operation of any part of the emission control system, that reduces the effectiveness of the emission control system under conditions which may reasonably be expected to be encountered in normal vehicle operation and use'; whereas Regulation (EC) No 715/2007 also explicitly invites the Commission to introduce tests and to adopt measures concerning the use of defeat mechanisms;

D. whereas, following the investigation by US authorities, Volkswagen has admitted to having installed defeat devices in at least 11 million of the diesel vehicles it has sold; whereas 8 million such vehicles have been sold on the European market since 2009; whereas the Volkswagen engines sold on the EU market were type-approved as adhering to the Euro 5 standard;

E. whereas the Euro 5 limit value for NOx emissions from diesel vehicles is 180 mg/km, applicable to vehicles type-approved between 1 September 2009 and 1 September 2014 and to all vehicles sold between 1 January 2011 and 1 September 2015, and whereas the corresponding Euro 6 value is 80 mg/km, applicable to new types since 1 September 2014 and to all vehicles sold since 1 September 2015; whereas Euro 6 vehicles registered before the standard was introduced as a legal limit have benefited from tax rebates; whereas independent test results confirm significant discrepancies in vehicle emissions during normal use, in respect of both standards;

F. whereas the US federal and Californian standards for NOx emissions from diesel vehicles are significantly more stringent than the Euro 6 limit values, are tested on a more representative test cycle, and are still technically feasible;

G. whereas the Commission Joint Research Centre (JRC) analysis of 2011 came to the conclusion that NOx emissions from diesel vehicles measured by a portable emission measurement system (PEMS) substantially exceed the respective Euro 3-5 emission limits, ranging from a factor of 2 to 4 for average NOx emissions over entire test routes to a factor of 14 in individual test windows; whereas another JRC report, of 2013, concludes that Euro 6 vehicles may exceed the emission levels of Euro 5 vehicles; whereas ICCT analysis of October 2014 documents on-road NOx emissions from tested diesel vehicles as being, on average, about seven times higher than the limits set by the Euro 6 standard; whereas, however, the Commission did not question Member States' enforcement on the basis of this evidence;

H. whereas the tests for conformity of production and in-service conformity have not been subject to common standards at EU level, despite the mandate given to the Commission to establish specific requirements for such procedures through the comitology procedure; whereas, as a result, the requirements for conformity of production and in-service conformity are generally not adequately enforced; whereas there is no requirement for the disclosure of information to the Commission, other Member States' TAAs or other interested parties regarding any tests applied by the competent TAAs and the results thereof;

I. whereas several Member States' TAAs are not independent of the automotive industry and are highly dependent on industry financing, inter alia, prompting concerns over potential conflicts of interest;

J. whereas the current EU type-approval regime does not allow the Commission or other Member States' authorities to withdraw vehicles' type approvals or certificates of conformity, to recall vehicles or to suspend their placement on the market if they are type-approved by another Member State; whereas vehicle manufacturers are able to choose any testing authority in the EU, which leads to unhealthy competition between testing authorities; whereas there is no oversight of the testing work performed by TAAs;

K. whereas the Commission is in the process of reviewing the type-approval framework;

L. whereas the Euro 5 and 6 Regulation is directly applicable in the Member States, and whereas, depending on the Member States' legal systems, consumers can seek redress from vehicle manufacturers through national courts for any infringement of the requirements;

M. whereas, under the Directive on certain aspects of the sale of consumer goods and associated guarantees (1999/44/EC), consumers have the right to a minimum two-year guarantee after purchasing a product, and whereas the seller is required to deliver goods to the consumer which are in conformity with the contract of sale; whereas conformity is presumed if, inter alia, they 'comply with the description given by the seller and possess the qualities of the goods which the seller has held out to the consumer as a sample or model' and 'show the quality and performance [...]which the consumer can reasonably expect, [...] taking into account any public statements on the specific characteristics of the goods made about them by the seller, the producer or his representative, particularly in advertising or on labelling'; whereas, if there is no such conformity, the consumer is entitled to the remedies available under the respective national law, which in any case include a free-of-charge repair or replacement, and/or, depending on the country and the circumstances, a price reduction or the rescission of the sales contract and repayment of the purchase price;

N. whereas the Consumer Rights Directive (2011/83/EU) requires information on the main characteristics of a product to be provided prior to the conclusion of on- or off-premises or distance contracts, and requires the Member States to have rules on effective, proportionate and dissuasive penalties if the provisions of the directive are not fulfilled;

O. whereas the Unfair Commercial Practices Directive (2005/29/EC) prohibits, in particular, any practice that 'materially distorts or is likely to materially distort the economic behaviour with regard to the product of the average consumer whom it reaches or to whom it is addressed', provides that commercial practices which are in all circumstances considered to be unfair include 'claiming that a trader (including his commercial practices) or a product has been approved, endorsed or authorised by a public or private body when he/it has not or making such a claim without complying with the terms of the approval, endorsement or authorisation', and requires the Member States to adopt effective, proportionate and dissuasive penalties; whereas Directive 2005/29/EC states that 'a commercial practice shall be regarded as misleading if it contains false information and is therefore untruthful or in any way, including overall presentation, deceives or is likely to deceive the average consumer, even if the information is factually correct';

P. whereas the Directive on public procurement (2014/24/EC) provides that contracts should be awarded on the basis of the principle of best value for money, which includes environmental criteria, and whereas contracts may subsequently have been awarded in the automotive sector on the basis of false information provided on vehicles' environmental performance; whereas the same directive provides that economic operators may be excluded where they have committed grave professional misconduct, which renders their integrity questionable; whereas the Directive on review procedures concerning the award of public contracts (2007/66/EC) provides that decisions taken by the contracting authorities may be reviewed on the grounds that such decisions have infringed Community law in the field of public procurement or national rules transposing that law;

Q. whereas air pollution resulted in more than 430 000 people dying prematurely in the EU in 2011, and costs EUR 940 billion annually in lost productivity; whereas more than 20 Member States are failing to meet the EU air quality limits set out in Directive 2008/50/EC; whereas nitrogen dioxide (NO2) is a dangerous pollutant and a precursor to several other pollutants such as ozone and particulate matter; whereas NOx and its derivatives cause lung cancer, asthma and numerous respiratory diseases, and particularly affect vulnerable groups such as children and the elderly; whereas NOx also has a severe impact on the environment and is responsible for acidification, eutrophication and the degradation of materials; whereas diesel vehicle exhaust is a principal source of NOx in urban areas in Europe; whereas NOx acts as an indirect greenhouse gas;

R. whereas since 2012 the WHO International Agency for Research on Cancer (IARC) has classified diesel engine exhaust as a carcinogen, and has advised that, given the additional health impacts of diesel particulates, exposure to the mixture of chemicals emitted should be reduced worldwide;

S. whereas current systems for controlling NOx emissions from diesel passenger cars rely on three main technologies: inner-engine modifications coupled with exhaust gas recirculation (EGR), lean-burn NOx absorbers (lean NOx traps, or LNTs), and selective catalytic reduction (SCR); whereas, in order to meet Euro 6 limit values, most vehicles are equipped with at least two of the three technologies; whereas all of these technologies can be deactivated by software defeat devices;

T. whereas, in order to ensure compliance with emission standards, vehicles installed with defeat devices will require the removal of the device, emission control system software modifications and, depending on the engine technology, hardware interventions;

U. whereas it is possible to improve the performance of emission control systems already installed in vehicles through the removal of defeat devices, reprogramming and recalibration;

V. whereas discrepancies between test results and vehicle performance in normal use are not limited to NOx, but also exist for other pollutants and for CO2; whereas according to the ICCT (September 2015) the gap between official and real-world CO2 emissions from passenger cars in Europe stood at 40 % in 2014;

W. whereas the change to the Worldwide Harmonised Light Vehicles Test Procedure (WLTP) in the EU requires the existing fleet's average CO2 emission targets for manufacturers to be adapted to the new test; whereas the procedure for such correlation is ongoing in comitology, and should maintain comparable stringency for manufacturers;

1. Considers it regrettable that these excess emissions have caused unnecessary premature deaths, harmful effects on human health, and environmental damage;

2. Deplores the serious lack of enforcement of EU internal market regulation, which has been exposed thanks to the action of US authorities;

3. Is deeply concerned about the failure of Member State authorities and of the Commission to act on evidence that the emission limit values prescribed by EU law (Regulation (EC) No 715/2007 on Euro 5 and 6) for vehicles in normal use were being exceeded, including the JRC reports of 2011 and 2013, which contained evidence of significant discrepancies in the performance of vehicles on the road as compared with test results, and pointed to the use of defeat devices as an explanation;

4. Calls, therefore, for the establishment of a committee of inquiry to investigate the respective responsibility of the Commission and of Member State authorities for the failure to ensure the proper implementation and enforcement of the relevant EU law;

5. Calls on the Commission and the Member States to launch immediately an investigation into the use of defeat devices in all vehicle brands sold in the EU and the performance of vehicles in normal use as regards pollutant limit values and advertised CO2 values (g/km); considers that such an investigation should be overseen by the Commission and conducted on the basis of data collected and submitted by Member State TAAs for vehicles on the market, using real-world driving tests; insists that such an investigation be conducted in full transparency and with full public access to data; demands that the Commission report back to Parliament on the results of this investigation, in writing, by 31 March 2016;

6. Demands that where defeat devices are found or present, Member State authorities withdraw the type approval and certificate of conformity for such vehicles in accordance with Article 30 of Directive 2007/46/EC and Article 10 of Regulation (EC) No 715/2007, apply appropriate penalties and require mandatory recalls to remove any defeat devices and ensure conformity with the relevant regulation, and that manufacturers be required to compensate customers; urges the Commission to initiate infringement proceedings against the relevant Member State authorities for failing to enforce the provisions of Regulation (EC) No 715/2007;

7. Demands that where defeat device are found or present, Member State authorities require manufacturers to reimburse any subsidies, tax benefits or other fiscal incentives received on the basis of claimed environmental performance; believes that not doing so would amount to a distortion of competition and constitute illegal State aid, requiring the Commission to launch a procedure in respect of illegal State aid; proposes that the returned subsidies be allocated to carbon divestment projects aimed at improving air quality and to sustainable transport projects in cities across the EU;

8. Calls on the sector of the automobile industry having engaged in unfair practices to finance and support updates of independent rankings of road vehicles on the basis of environmental performance;

9. Calls on the Member States to ensure better enforcement of the mandatory rules regarding misleading advertising and unfair commercial practices in the automobile sector, and to ensure that any claims concerning vehicle performance are accompanied by qualifying text making it clear that existing official EU test figures do not reflect real driving results;

10. Stresses that consumers must be able to exercise their rights easily, as provided for in Directives 1999/44/EC, 2005/29/EC and 2011/83/EU; asks that Member States and their competent authorities provide easily accessible information and clear advice to consumers who ask about such rights; asks the Commission and the Member States, furthermore, to ensure that such rights are upheld;

11. Calls for Directive 2005/29 to be reviewed in order to add false green claims to the list of unfair commercial practices and allow Member States to adopt or maintain practices additional to that list;

12. Believes that this case illustrates the need for an EU-wide collective redress mechanism, and calls on the Commission to come forward with a legislative proposal to ensure that EU-wide mechanisms exist to provide EU consumers with such redress;

13. Stresses the need to ensure that the rules on public procurement and the associated review procedures are implemented fully by the competent EU and Member State authorities;

14. Demands that the Commission monitor closely the organisation of the recall procedures, in order to ensure that non-conform vehicles do not remain in circulation on EU territory;

15. Calls for independent verification of the intended modifications in order to ensure that they result in vehicles conforming to the relevant standards; demands that clear and trustworthy information on the vehicles' fuel efficiency, performance and emission levels after modification be provided to consumers by

the manufacturer;

16. Endorses the Deß report (A8-0270/2015) on the reduction of pollutant emissions from road vehicles, adopted by its Committee on the Environment, Public Health and Food Safety on 23 September 2015 with 66 votes in favour and 2 against, and in particular the committee's position requiring the Commission to 'introduce a real driving emissions test for all vehicles type-approved or registered from 2015 to ensure the effectiveness of emission control systems and enable the vehicle to comply with this Regulation and its implementing measures, with a conformity factor reflecting only the possible tolerances of the emissions measurement procedure in place by 2017'; urges the Council and the Commission to come to an early agreement on a framework for a real driving emissions (RDE) test on that basis, and calls for the swift adoption of the procedure in comitology following agreement on the legislative proposal;

17. Deplores the lack of transparency of the deliberations under comitology on the proposal for an RDE test, and in particular the Commission's failure to forward information to Parliament at the same time as to Member State representatives;

18. Stresses the need for significant strengthening of the current EU vehicle type-approval regime, including greater EU oversight and enforcement powers, in particular as regards the market surveillance, coordination and follow-up regime and the reviewing of certifications when significant doubts are raised; calls, to this end, for an independent EU type approval authority with a view to, inter alia, more coherent testing standards and procedures across the EU for air pollutant emissions, fuel consumption and CO2 emissions;

19. Finds it of the utmost importance that the Commission and all competent Member State authorities be given the right to withdraw type approvals and certificates of conformity, to require recalls and to stop the placement on the market of vehicles when they have evidence of non-compliance with EU emission limit values under the Euro 5 and 6 Regulation, where there is evidence of a significant deviation between type-approval CO2 or fuel consumption values and real-world performance, or any other requirement provided for by the type-approval regime;

20. Considers that the upcoming review of the Type-Approval Framework Directive must expand and specify the conformity-of-production requirements in order to ensure that a sufficient and representative sample of new models taken off production lines at random are independently verified on an annual basis, using RDE tests to check their compliance with EU pollutant limit values, and that such tests are further extended for the purpose of checking compliance with type-approval CO2 and fuel consumption values;

21. Calls, furthermore, for improved in-service testing of vehicles already used on the road, also on the basis of the RDE procedure, in order to verify the in-service conformity of vehicles at different mileages as required under the regulation; calls for the improvement of on-road surveillance through periodic technical inspections to identify and repair vehicles not in compliance with EU law; notes, in particular, that on-board diagnostics can easily be programmed not to recognise faults, and calls for appropriate measures to investigate and address this;

22. Insists that the current situation in several Member States, whereby the TAAs are not independent of the automotive industry, must cease in order to ensure that there is no conflict of interest;

23. Emphasises that the results of tests of vehicles' environmental performance must be made publicly available;

24. Stresses the need to ensure that competent EU and Member State authorities have access to the source codes of vehicle control system computer programs in order to check for defeat device software; takes the view, in this connection, that access to computer systems and source codes should be transparent and open,

in a similar manner to access to, and inspection of, mechanical parts;

25. Stresses that users, researchers and developers should have the unencumbered right, the technological means, and legal protection to inspect, test and analyse the functioning of IT systems in vehicles and to conduct forensic analysis to detect undeclared functions or functions intended to defraud the public or the authorities; calls on the Commission to remove legal obstacles to users, researchers and developers inspecting, analysing and disassembling digital services and IT systems embedded in vehicles, and to prevent legislation intended to protect legitimate interests being misused to cover up fraudulent business practices;

26. Calls for the Car Labelling Directive (1999/94/EC) to be reviewed with a view to improving the accuracy, relevance, independence, clarity and comparability of information provided to consumers; considers that the labels should be based on the CO2 and fuel consumption values obtained in RDE tests;

27. Encourages the EU to introduce labelling for vehicles with higher levels of particulate emissions, in order to enable cities – for health reasons – to limit these vehicles' access to densely populated and frequently visited areas;

28. Is also concerned about the discrepancy of the CO2 emissions declared in test results and those observed by drivers on the road; calls, therefore, for swift agreement on the WLTP correlation for fleet average CO2 targets without credit being given for unfair flexibilities in the current test procedure, in order not to weaken the 2021 target; believes that this vehicle emission scandal provides clear evidence that public authorities need to remain independent from the sector they regulate, and that the EU level needs to have stronger powers to monitor implementation and enforce legislation; calls on the Commission to demonstrate to EU citizens that the Better Regulation process has as its ambition the provision of effective and enforced laws across the EU for the benefit of all EU citizens;

29. Calls on the Commission to review the data in its 'Handbook on estimation of external costs in the transport sector' on the basis of new knowledge on real emissions and air pollution from road vehicles;

30. Considers it regrettable that the automotive industry has gained privileged access to the decision-making process vis-à-vis the rules supposed to regulate them, including in comitology; questions the balance in the way that such decision-making is conducted; demands improved transparency through the publication of all documents exchanged by the Commission and the Council with the automotive industry since 2004;

31. Calls on the Commission and the European Investment Bank (EIB) to investigate the funding – including EIB and EU R&D loans and grants – provided to the automotive industry for the development of cleaner engines, to evaluate the effectiveness of that funding, and to establish whether any of it was misused for the development of emission testing defeat devices; takes the view that in any such cases the funds must be reimbursed;

32. Deplores the fact that the manufacturers' management decisions to infringe legal standards may have a serious impact on workers;

33. Stresses that before considering any redundancies the manufacturers must use their own financial resources, including by retaining profits rather than distributing dividends, to cover as much as possible of the cost arising from the infringement of applicable law; points out that the company and its shareholders must absorb as much of the losses as possible prior to using taxpayer funds at Member State or EU level, in order to avoid moral hazard;

34. Calls on the Commission to examine which EU funds could be mobilised in support of the workers

concerned, and points out that such assistance measures should not replace any Member State or company responsibility and should be compatible with a shift towards a resource-efficient and sustainable economy;

35. Is convinced that keeping Europe's automotive industry competitive in the future will depend on creating a virtuous circle that benefits innovation, employment, health, the environment and mobility; calls for the automotive sector to align investment and development strategies with society's needs for a cleaner, climate-resilient environment through, inter alia, the production of energy-efficient and clean vehicles, including electric vehicles; doubts that, in this context, diesel technology will have any role to play in the mobility of the future;

36. Supports the development of a coherent and concerted European response in order to ensure that industrial policy and investment strategies are oriented towards the delivery of safe, clean, sustainable and reliable transport systems, with a shift away from fossil fuels towards new technologies and energy sources;

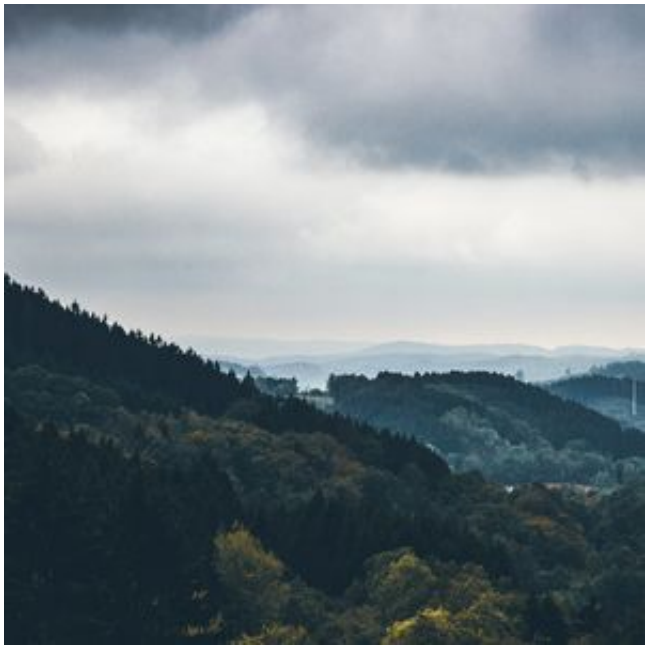
37. Stresses that international free trade agreements must not lead to the lowering of climate protection standards, but help to raise them in the EU and in other parts of the world;

38. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States;

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