



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 28 May 2009

10012/09

**Interinstitutional File:
2008/0263 (COD)**

**TRANS 206
TELECOM 113
IND 63
CODEC 734**

REPORT

from: Presidency
to: Coreper / Council

n° prev. doc. : 8441/09 TRANS 140 TELECOM 71 IND 38 CODEC 509
n° Cion prop.: 17564/08 TRANS 493 TELECOM 238 IND 38 CODEC 509

Subject: *Preparation of the Council meeting (Transport, Telecommunications and Energy) on 11 and 12 June 2009*
Proposal for a Directive of the European Parliament and of the Council laying down the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other transport modes
- *Progress report*

Commission proposal

1. On 16 December 2008 the Commission adopted a proposal for a Directive of the European Parliament and of the Council on establishing a framework for the accelerated deployment of ITS¹ across the EU and a related Action Plan.

¹ Intelligent Transport Systems

2. The general objective of this proposal is to create the conditions and, in particular, to put in place the necessary mechanisms to foster the uptake of ITS services and applications for road transport and their interfaces with other modes of transport in order to have ITS contributing at its full potential towards the various EU policies. To this end the proposal foresees to apply the comitology procedure (regulatory procedure with scrutiny) for common and legally binding specifications defining detailed provisions and procedures for the deployment of ITS across the EU.

Work within the Council bodies

3. The Working Party on Transport, Intermodal Questions and Networks started the discussions on this directive and the accompanying Action Plan under CZ Presidency in mid-January 2009 and several of its meetings were dedicated to this issue. Owing to the complexity and far-reaching implications of the issue and in order to better structure the debate, the Presidency presented to delegations a questionnaire. In this questionnaire Member States were invited to clarify their positions on the actions proposed by the Commission and, in particular, the appropriateness of pursuing the suggested legislative action.
4. The responses by delegations to the above questionnaire served as a basis for adopting Council Conclusions² on the Action Plan adopted on 30 March 2009 as well as to steer and to make progress on the examination of the directive.
5. As a follow-up to the Council Conclusions the Presidency convened a special working session on 23 April 2009 with participation of national delegates and ITS experts. This meeting enabled a further analysis concerning the proposed ITS actions at the EU level.

² Doc. 8005/09 TRANS 121 TELECOM 58 IND 29

6. The informal meeting of EU transport ministers in Litomerice/Czech Republic on 29 April 2009³ was dedicated to the deployment of ITS and contributed to clarify and develop the positions of Member States on this issue.

Outstanding issues

7. A majority of delegations share the general aim of this proposal to accelerate and coordinate the deployment and use of Intelligent Transport Systems applied to road transport, including the interfaces with other transport modes. Although agreeing to the objective, Member States expressed concerns on the:
- a) competence for the different priority areas proposed i.e. Community vs. Member States,
 - b) scope of the comitology procedure and obligations resulting thereof,
 - c) priorities of the different actions envisaged,
 - d) impact of the draft Directive on already existing ITS and national policies,
 - e) financial and administrative implications for the Member States.
8. A number of delegations could in principle follow the Commission's approach to apply the comitology procedure for establishing specifications and procedures for a coordinated and accelerated use of ITS across the EU. These delegations nonetheless express the wish to clearly define the areas to which the comitology procedure should be applied.

³ Doc. 8177/09 TRANS 130

9. Member States in general are favourable to establishing common norms and standards to better guarantee interoperability and compatibility of ITS in the EU and therefore recognise the need for certain Community action. However, Member States express different views on the best ways and means to deploy ITS across the EU. One group of Member States generally expresses doubts on the necessity to establish a comprehensive Community legal framework for ITS applications. Another group prefers to decide on a case by case basis which approach - legislative or non-legislative - should be pursued. These Member States underline that any decision on this issue should take into account the principles of subsidiarity, proportionality and cost-effectiveness.
10. The latter group considers that the framework proposed by the Commission is based too heavily on the comitology procedure (regulatory procedure with scrutiny) and therefore not appropriate for all envisaged actions. The question of competence, whether Community, Member State or private sector, has to be assessed for each individual action prior to any decision. Most of these Member States also consider some of the proposed obligations resulting from the deployment of ITS as inappropriate, either because they would fall under the competence of the Community or they are heavily based on the private sector activities. These delegations request an explicit inclusion of the principle that for the existing ITS in Member States the application of the Directive will not be mandatory.
11. Some delegations further request clarification of the Article 5 of the Commission proposal, in particular the character and the use of national type-approval procedure and the mutual recognition principle.
12. The majority of Member States highlights the need for a thorough cost-benefit analysis for the impacts of the ITS deployment under the scope of the ITS Directive which would clearly indicate the financial and administrative costs of the Member States. In reaction to this, the Commission indicates its willingness and intention to carry out an impact assessment for suggested measures to which the comitology procedure would apply.

13. In the light of the above positions of Member States, the Presidency presented to delegations a revised draft directive⁴ taking into consideration the main concerns raised by delegations. The revised text reflects, in particular, the request by many delegations to clearly specify and define the areas to which the comitology procedure should apply. To this end, the Presidency suggests to cluster the priority areas for the use and deployment of the ITS in a new article of its own (Article 1a) which should not be modified by comitology. The articles on the scope and subject matter (Article 1), definitions (Article 2), the obligations of Member States for the deployment of ITS (Article 3) and specifications (Article 4) have been further specified. Moreover, the Presidency proposes an article on "non-binding measures" (Article 4a new), following the request of many delegations to provide also for non-legislative instruments, e.g. voluntary agreements in order to facilitate Member State's cooperation on the ITS priority areas. Finally, the text has been streamlined taking into consideration the responses of Member States to the questionnaire as well as the Council conclusions adopted on 30 March 2009.

The revised draft directive was discussed by the Working Party on 14 May 2009 and the majority of delegations considers it as a step into the right direction. However, a part of them underlines that a number of important issues still need to be further clarified.

14. The Commission expresses a clear preference for its legislative proposal. It favours an approach where the decision on the establishment of a comitology committee is taken through the co-decision procedure while the decision on the definition of specifications for selected ITS actions is referred to the above committee. The Commission attaches the highest importance to giving a broad and comprehensive mandate to the committee in order to allow as many ITS actions as possible to be decided and coordinated at Community level.

⁴ Doc. 8441/09 TRANS 140 TELECOM 71 IND 38

Work within the European Parliament

15. On 22 April 2009 the European Parliament voted in plenary by following largely the Commission proposal. However, the EP suggested to amend in particular the proposal as follows:

- to make the principles set out in Annex I mandatory for the Member States , when adopting the measures to fulfil their obligations;
- to invite the Commission to define specifications for the obligatory deployment and use of minimum level of ITS applications and services (in particular e.g. for eCall, or free minimum universal traffic information services), based on the comitology procedure;
- to conduct an impact assessment a priori to the adoption of the specifications;
- to enhance compatibility between ITS systems while ensuring "backward compatibility" with previous applications and systems;
- to increase the focus on vulnerable road users (pedestrians, cyclists, motorcyclists, disabled people and people with limited mobility);
- to ensure respect for data protection and privacy: collection, storage and processing of personal data must be carried out in accordance with EU rules;
- to clarify liability issues by involving experts and stakeholders.

Conclusions

16. The Presidency invites COREPER/Council to examine this progress report and to take note of the intention of the Council preparatory bodies to pursue the work on the above Commission proposal with a view to reaching significant results on this issue by the end of 2009.