

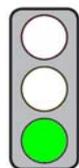
GUIDELINES FOR MOTOR VEHICLE VIGNETTES

cep Policy Brief 2012-28 of 9 July 2012

KEY ISSUES

Objective of the Communication: The Commission wishes to clarify by means of “guidelines” how Member States could shape their vignette systems for light private vehicles to be in line with EU law.

Parties affected: Drivers of light private vehicles, Member States.



Pros: (1) Road charges can help finance transport infrastructure and internalize the external costs of road transport.

(2) National vignette systems must provide for short-term vignettes at appropriate rates so that drivers from other Member States are not discriminated against.

Cons: –

CONTENT

Title

Communication COM (2012)199 of 14 May 2012 on **the application of national road infrastructure charges levied on light private vehicles**

Brief Summary

► Background

- Seven Member States – Austria, Bulgaria, Czech Republic, Hungary, Romania, Slovakia and Slovenia – currently levy national road infrastructure charges on “light private vehicles” by means of “vignettes”.
- “Light private vehicles” are predominantly privately used passenger cars, motorcycles and other motor vehicles with a total permissible mass of less than 3.5 tonnes.
- Road infrastructure charges can be levied in the form of:
 - time-based charges (“vignettes”) mostly for the use of the main road network; or
 - distance-based charges (“tolls”) for the use of individual road sections.
- Apart from the general principles incorporated in the EU Treaties, there are currently no EU rules on the application of national road infrastructure charges levied on light private vehicles. Therefore, Member States are free to introduce national vignette and toll systems.
- The Commission has received “numerous” complaints regarding national vignette systems (p. 4) with particular regard to:
 - the potential discrimination against occasional users due to a lack of or inappropriately expensive shorter-term vignettes, which are mainly requested by foreign road users; and
 - “inappropriate” practices on the part of the authorities concerning the enforcement of the vignette system.

► Objectives

- By means of legally non-binding “guidelines”, the Commission wishes to demonstrate how Member States could establish national vignette systems in line with EU law and ECJ case law (p. 3 et sqq.) whilst taking account of the prohibition of discrimination due to nationality (Art. 18 TFEU) and of the principle of proportionality (Art. 5 TEC).
- In accordance with the principle of subsidiarity, the Commission is not considering putting forward any proposals for legislation on the application of national road infrastructure charges levied on light private vehicles (p. 3).
- In general, the Commission’s aim is to establish a “modern road pricing system” for all modes of transport which (p. 2):
 - allows for “fair competition” between different transport modes (road, rail, aviation, inland waterways) by charging infrastructure costs to users (“user-pays-principle”);
 - prevents the discrimination of users based on nationality or their residence;
 - charges traffic-related “external costs” (e.g. noise) to users (“polluter-pays-principle”); and
 - finances a high-quality infrastructure.
- The Commission prefers tolling systems to vignette systems because they constitute “distance-based charges, directly linked to the use of infrastructure” (p. 4).

► Duration of use and rates for vignette options

- In order to prevent discrimination, a vignette system “should” include vignettes with at least three different rates – e.g. weekly, monthly and annual.
- Short-term vignettes are to be offered at “proportionate” prices (p. 7).
- According to the Commission, a higher average daily price of short-term vignettes in comparison to long-term vignettes is justified due to (p. 6).
 - the additional administrative costs of short-term vignettes and
 - the more intense use of the road network with short-term vignettes.
- As a guide for the charging of different vignettes, the Commission refers to the EU regulation for heavy goods vehicles (Art. 7a (1) Euro Vignette Directive 1999/62/EC):
 - The daily rate must not exceed 2% of the annual rate.
 - The weekly rate must not exceed 5% of the annual rate.
 - The monthly rate must not exceed 10% of the annual rate.

► Information

- Both resident and non-resident drivers must be informed that the purchase of a vignette is obligatory for the use of certain roads (p. 8).
- Information on the obligation to buy a vignette must be provided in tourist publicity material, on the internet, road signs, in the language of the bordering Member States and in other more widely used European languages.
- At retail outlets, amongst others the following information should be made available:
 - which types of vehicles are liable to purchase a vignette;
 - the roads for which vignettes are compulsory;
 - vignette options and prices; and
 - applicable penalties.
- The expiry date of the vignette must be stated on the sticker.

► Payment options

- Several payment options must be made available to vignette buyers.
- Retail outlets including “self-serve kiosks” must (p. 8):
 - be located near the roads that are to be charged, including relevant border crossings;
 - “be accessible as long as possible” on a daily basis;
 - accept widely used debit and credit cards and
 - cash in euro/the national currency and neighbouring Member State's currency.

► Enforcement of the vignette requirement and sanctions

- In particular, the enforcement practices of the Member States are to:
 - help increase the number of road users complying with requirements and
 - avoid discrimination against non-resident occasional users.
- Enforcement officers should:
 - be able to offer users the possibility to buy a vignette immediately so as to avoid a penalty, if it is reasonable to believe that a mistake was made;
 - focus their efforts on the enforcement of frequent offenders

Changes to the Status quo

To date, there have been no EU-wide guidelines for national vignette systems for light private vehicles.

Statement on Subsidiarity by the Commission

According to the Commission, the subsidiarity principle does not allow the EU to adopt legislative acts (p. 3) for the levying of national road charges for light private vehicles in consideration of the prohibition of discrimination against foreigners (Art. 18 TFEU) and of the principle of proportionality (Art. 5 TEC). Non-binding guidelines, however, are not affected by this exclusion.

Policy Context

The Communication is part of a broader EU strategy on road charging. The road charging for heavy goods vehicles with a total permissible mass of more than 3.5 tonnes is covered by the Euro Vignette Directive [Directive 1999/62/EC in the version of the Amendment Directive 2011/76/EU; cp. COM(2008) 436, s. [CEP Policy Brief](#)].

In 2008, the Commission published a strategy on the internalization of external costs in the transport sector [COM(2008) 435, s. [CEP Policy Brief](#)]. Now it reiterates its intention stated in the White Paper on Transport [COM(2011) 144, s. [CEP Policy Brief](#)] to prescribe legally binding measures in order to internalize external costs caused by transport through road charges. Moreover, it wishes to discuss the possibility of extending the rules regarding road charging to all vehicles.

Options for Influencing the Political Process

Leading Directorate General:

DG Mobility and Transport

ASSESSMENT

Economic Impact Assessment

Ordoliberal Assessment

Road charges can help finance transport infrastructure and internalize the external costs of road transport. In turn, the financing of infrastructure through users (“user-pays-principle”) is just as appropriate as the internalization of external costs through the polluters (“polluter-pays-principle”). Prices should reflect scarcity; this is only possible if all relevant costs are actually included in pricing.

However, in practice external costs cannot be calculated precisely. Therefore, the optimal surcharge on the direct infrastructure user costs for internalization can only be calculated approximately, as such a calculation would require a degree of knowledge so exact that it cannot in principle exist in a complex market economy. This holds true for the exact number of parties damaged and the economic evaluation of the respective damages for instance.

The Commission is right to point out that in order to achieve the targets non-discrimination, financing of infrastructure and internalization of costs a toll system is more appropriate than a vignette system, as it takes better account of the actual infrastructure user costs.

The Commission’s proposal that a vignette system should provide also for short-term vignettes (e.g. weekly or monthly vignettes) reduces the potential discrimination against foreign road users. In addition, it harmonises the competitive conditions of different transport modes. For short-term vignettes reflect the actual infrastructure use more precisely and thus encourage potential users to use the road network.

Against this background, even daily vignettes would be desirable, as they would foster trade with bordering territories and thus strengthen the internal market.

Impact on Efficiency and Individual Freedom of Choice

EU-wide guidelines for the application of a vignette system can help remove barriers to mobility and thus serve to improve the smooth operation of the internal market and the efficiency of the transport sector.

In many Member States today, road transport is already subject to considerable tax burdens, which are also supposed contribute to the financing of infrastructure and the internalization of external costs. The nature and amount of the existing burdens vary among Member States and also between the different transport modes. In the event that vignette systems are introduced, the existing tax burdens imposed on road transport would have to be reduced – ideally through the costs for vignettes – in the pertaining Member States in order to avoid double burdening or distortion of competition. The Commission could comment on this issue.

Widespread multilingual information on the obligation to buy a vignette reduces the likelihood of infringements by mistake and at the same time the success of simulated mistakes. This has a positive impact on revenues drawn from the vignette system.

Allowing for different payment options facilitates the purchase of vignettes for foreign users and increases the likelihood of compliance with vignette requirements, for foreign buyers will not be forced to spend time and money on the purchase in the respective national currency.

Impact on Growth and Employment

Reducing the discrimination of foreign road users encourages cross-border mobility, in particular for occasional or seasonal commuters, and through an enhanced division of labour it can have a positive impact on growth and employment.

Impact on Europe as a Business Location

Insignificant.

Legal Assessment

Legislative Competency

Where cross-border transport is affected, the EU may in principle establish common rules for a “common transport policy” (Art. 90, Art. 91 (1) lit. a TFEU). Within this framework, the Commission may set forth and clarify how Member States could shape their vignette systems to be in line with EU law whilst taking into account the prohibition of discrimination of foreigners and of the principle of proportionality (Art. 5 TEC). This is consistent with its role as the “guardian of the treaties”, according to which it is in charge of ensuring compliance with EU Treaties (Art. 17 TEC).

Subsidiarity

The Commission is right to assume that a binding EU Regulation on vignette systems for light private vehicles is not in line with the principle of subsidiarity. For unlike cross-border transport of goods with heavy goods vehicles (Euro Vignettes Directive 1999/62/EC), an EU-wide legally binding regulation – for instance in consideration of the free movement of goods (Art. 28 TFEU) or the free movement of workers (Art. 45 TFEU) – is not necessary.

Proportionality

Unproblematic. Of all legislative tools, the legally non-binding guidelines constitute the most modest means.

The principle of proportionality requires that short-term vignettes are offered at an appropriate rate which reflects actual road usage over a short period.

Compatibility with EU Law

Discrimination based on nationality is prohibited pursuant to Art. 18 TFEU. This prohibition also includes so-called “covert forms of discrimination” which do not discriminate against nationality expressly but in fact lead to the same result [ECJ caselaw; cp. No. 389/92, No. 14 (Mund & Fester)]. **A national vignette system therefore must enable foreign drivers of light private vehicles who use charged roads only occasionally to buy a short-term vignette.** For the same reason, the duration and price of the short-term vignette should at least come close to corresponding to the actual degree of usage. Otherwise foreign drivers would be discriminated against inappropriately.

Compatibility with German Law

Unproblematic. Currently there is no vignette requirement (yet) for light private vehicles. On introducing a corresponding vignette system, the Commission’s proposal to provide for short-term vignettes at appropriate rates should be taken account of.

Conclusion

Road charges can contribute to the financing of transport infrastructure and help internalize external costs. A national vignette system must therefore allow foreign drivers of light private vehicles who use the charged roads only occasionally to buy a short-term vignette. The principle of proportionality requires that short-term vignettes are offered at appropriate rates.