

Vehicle Type-Approval and Emission Regulation in the EU:

Environmental Perspective

Jiří Vodička

The background is a vibrant green with a subtle, stylized world map. Overlaid on the map are several white and green silhouettes of vehicles: a car in North America, a car in Europe, a bus in South America, and a car in Australia. The overall design is clean and modern, emphasizing environmental themes.

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ABBREVIATIONS

<u>AES</u>	Auxiliary Emission Strategy
<u>AG</u>	Advocate General
<u>AQD</u>	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.
<u>BEV</u>	Battery Electric Vehicle
<u>Commission</u>	the European Commission
<u>Commission Regulation No 692/2008</u>	Commission Regulation (EC) No 692/2008 of 18 July 2008 implementing and amending Regulation (EC) No 715/2007 of the European Parliament and of the Council 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
<u>Commission Regulation 2017/1151</u>	Commission Regulation (EU) 2017/1151 of 1 June 2017 supplementing Regulation (EC) No 715/2007 of the European Parliament and of the Council 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, amending Directive 2007/46/EC of the European Parliament and of the Council, Commission Regulation (EC) No 692/2008 and Commission Regulation (EU) No 1230/2012 and repealing Commission Regulation (EC) No 692/2008
<u>CJEU</u>	The Court of Justice of the EU
<u>DG</u>	Directorate General
<u>Directive 2007/46</u>	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

<u>Directive 2014/94/EU</u>	Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure
<u>FCV</u>	Fuel Cell Vehicle
<u>ICE</u>	Internal Combustion Engine
<u>NEDC</u>	New European Driving Cycle
<u>OBD</u>	On-board Diagnostic System
<u>PEMS</u>	Portable Emissions Measurement System
<u>RDE</u>	Real Driving Emissions
<u>Regulation No 715/2007</u>	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
<u>Regulation 2018/858</u>	Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC
<u>Regulation 2019/631</u>	Regulation (EU) 2019/631 of the European Parliament and of the Council of 17 April 2019 setting CO ₂ emission performance standards for new passenger cars and for new light commercial vehicles, and repealing Regulations (EC) No 443/2009 and (EU) No 510/2011
<u>TEU</u>	Treaty on the European Union
<u>TFEU</u>	Treaty on Functioning of the European Union
<u>UNECE Agreement</u>	Agreement concerning the Adoption of Harmonized Technical United Nations Regulations for Wheeled Vehicles, Equipment and Parts which can be Fitted and/or be Used on Wheeled Vehicles and the Conditions for Reciprocal Recognition of Approvals Granted on the basis of these United Nations Regulations
<u>WLTP</u>	Worldwide Harmonized Light Vehicles Test Procedure

EXECUTIVE SUMMARY

The automotive industry represents approximately 7% of the EU's GDP and employs, directly and indirectly, about 13.8 million people.¹ Vehicles are an essential aspect of today's society, allowing for easy migration within and across Member States. However, the impact of vehicles on human health, safety, and the environment cannot be overlooked. Additionally, the issue of manufacturers' emission cheating, exemplified by the Dieselgate scandal, has significantly influenced the current vehicle legislation.

This publication aims to find out whether there is a connection between type-approval and environmental protection. The objective is fulfilled through the introduction and critical analysis of two seemingly distinct issues: vehicle type-approval and vehicle emissions regulations in the EU. These issues are intertwined as they form the framework for vehicle type-approval. This connection is demonstrated through an analysis of specific legal instruments that can protect the environment, such as *defeat device* and *safeguard clauses*.

The publication is divided into several chapters, each addressing a different topic.

The first chapter introduces the type-approval procedure, which allows vehicles to enter the Internal Market according to Regulation 2018/858. This regulation defines specific types of type-approval procedures based on the number of vehicles manufactured in series. Furthermore, it sets specific obligations for economic operators, including manufacturers, importers, and distributors. The Regulation prohibits the use of software or devices that alter or can alter the behaviour of a vehicle during the type-approval procedure (commonly known as a *defeat device*²).

Simultaneously, the Regulation recognises situations where vehicles may *pose a serious risk* or *be non-compliant* with the regulation. However, it does not define the term "serious risk". This publication interprets "serious risk" to include significant threats or potential harm to human health, the environment, and other public interests.

The chapter also addresses problems and issues related to public authorities and other public entities, particularly the Commission, Member States, approval authorities, market surveillance authorities, and technical services. The most significant highlighted problems include disunity in the enforcement of type-approval rules (and potential reluctance to sanction the automotive sector), a missed opportunity to establish an EU type-approval agency, and potential issues with the independence of technical services. Conversely, the Commission has gained new powers to conduct type-approval procedure checks and to sanction manufacturers with non-compliant vehicles.

¹ For further information, see https://ec.europa.eu/growth/sectors/automotive_en

² The core issue in the Dieselgate scandal.