

Communication from the Commission - TRIS/(2015) 01766
 Directive 98/34/EC
 Notification: 2015/0120/D

Observations from the Commission (article 8, paragraph 2, of Directive 98/34/EC). These observations do not have the effect of extending the standstill period.

1. MSG 304 IND 2015 0120 D EN 15-06-2015 15-06-2015 COM 8.2
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2. Commission
3. DG ENTR/C/3 - BREY 08/94
4. 2015/0120/D - N20E
5. article 8, paragraph 2, of Directive 98/34/EC
6. Within the framework of the notification procedure laid down by Directive 98/34/EC, the German authorities notified to the Commission on 13 March 2015 the Draft Ordinance on minimum technical requirements in terms of the secure and interoperable deployment and operation of recharging points for electromobile vehicles which are accessible to the public (Charging Column Ordinance).

Pursuant to Article 8(2) of Directive 98/34/EC, examination of the draft has prompted the Commission to deliver the following comments:

§2(1) of the notified draft contains a definition of an “electromobile vehicle”:

“electromobile vehicle” means a pure battery-powered electric vehicle or a plug-in hybrid electric vehicle in categories M1 and N1 as defined in Annex II Part A 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 (OJ L 263 of 9 October 2007, p. 1), as last amended by Directive 2013/15/EU of 13 May 2013 (OJ L 158 of 10 June 2013, p. 172); vehicles in category N2 as defined in Annex II Part A to Directive 2007/46/EC are included provided they may be driven in Germany with a class B driving licence;”.

The Commission suggests extending the scope of the draft Ordinance by including in to the above mentioned definition all M and N group vehicles. This inclusion will be consistent with the scope of Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure (OJ L 307 of 28 October 2014, p. 1-20). Moreover, the Commission recommends adding to the definition of electromobile vehicle all category L vehicles under a new point §2(1)b:

b) Category L set-out in Annex I to Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheeled vehicles and quadricycles (OJ L60, 2.3.2013, p.52).

The electrified L-category vehicle fleet (including light two-, three and four-wheeled vehicles such as powered cycles, two- and three-wheeled mopeds, motorcycles with and without a sidecar, tricycles and quadricycles) is significantly bigger than the electrified passenger car fleet in the EU and offers higher potential to convert conventionally propelled L-category vehicles equipped with a traditional combustion engine into light vehicles equipped with electrified propulsion. Therefore, it would be highly advantageous for the L-category vehicle industry sector as well as for the many users of such vehicles that each recharging point that is made available for light-duty vehicle (car) owners also contains a (re-)charging possibility for the owners of L-category vehicles. This should be a relatively cheap add-on that can greatly help society in their needs for electrified and energy efficient mobility, especially in the urban areas but also beyond that environment.

Regarding the standards referred to in §3 point 1, 2 and 3 of the notified draft Ordinance, the Commission would like to raise that while the numbering is correct and in line with Directive 2014/94/EC, the Directive does not contain references to particular versions of the standards (the notified Ordinance mentions "December 2014 edition" – two times – and "July 2012 edition"). In this context the Commission would like to draw the attention of the German authorities to the CEN/CENELEC position paper on the proposed Directive (available at: http://www.cencenelec.eu/news/policy_opinions/PolicyOpinions/PositionPaperDeploymentAlternativeFuels.pdf)

This paper states that "The citation of European standards with a specific year of publication in legislation 'freezes' the state of the art at a specific year of issue of the standard and does not allow the legislation to evolve simultaneously with future standard editions reflecting the evolution of the state of the art. If the direct reference to standards is to be kept in Annex [III] of the Directive, CEN and CENELEC would then recommend the use of undated references, which would de facto mean a reference to the latest version of the standard." This is the reason why the co-legislator decided to modify the initial Commission proposal, which contained references to particular versions of the standards, and not to include such references.

Contrary to Article 4 paragraph 4 first and second sentence of Directive 2014/94/EU, §3 sub paragraphs 1, 2 and 3 of the notified Draft Ordinance do not include a reference to the date of 18 November 2017 as the deadline for recharging points to be compliant with Annex II, points 1.1 and 1.2 of the Directive 2014/94/EU, i.e. that recharging points be mandatorily equipped with at least Type 2/Combo 2 socket outlets. While the Commission acknowledges that the reference date is a deadline and that Member States can anticipate that date in their national legislation, the Commission would like to remind the German authorities of Recital 33 of Directive 2014/94/EU which stipulates that investments made before the adoption of Directive 2014/94/EU in technologies which are different from those prescribed by the

Directive should not be hampered: "Interface to charge electric vehicles could include several socket outlets or vehicle connectors as long as one of them complies with the technical specifications set out in this Directive, so as to allow multistandard recharging. However, the choice made in this Directive of Union-wide common connectors for electric vehicles (Type 2 and Combo 2) should not be detrimental to Member States having already invested in the deployment of other standardised technologies for recharging points and should not affect existing recharging points deployed before the entry into force of this Directive. Electric vehicles already in circulation before the entry into force of this Directive should be able to recharge, even if they were designed to recharge at recharging points that do not comply with the technical specifications set out in this Directive. [...]". Therefore the period until 18 November 2017 is a transition period allowing the corresponding economic operators to adapt to the obligations derived from Directive 2014/94/EU regarding standards.

Furthermore, the Commission would like to draw the attention of the German authorities to the apparent inconsistencies related to the concept of "accessible to the public" contained in § 2 point 9 of the draft. In particular, a clarification of the following expression is needed: "along with all measures which are exclusively or predominantly intended to deny other drivers of electromobile vehicles access to the recharging point, shall not be taken into consideration as being accessible to the public as regards the classification of a recharging point;". In the Commission's understanding this notion of public accessibility would imply that there are no privately accessible recharging points (with the exclusion of those socket outlets not considered to be recharging points for electric vehicles as defined in § 2 point 7 of the notified Ordinance and in Article 2 paragraph 4 of Directive 2014/94/EU), i.e. that ultimately all recharging points are publicly accessible. However, the expression above would also contradict the sentence contained in § 2 point 9 of the notified Ordinance "[...] provided the parking place which is part of the recharging point can actually be used by an indeterminate category of persons or a category of persons which can only be defined according to general characteristics;".

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