The Genesis of the new *Eurovignette Directive*

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**Abstract**

The adoption *Eurovignette* Directive 2011 has reinforced the discussion on the highly contested ‘polluter pays principle’. This paper presents the course of the legislative procedure *ab ovo ad malum* and pinpoints instances of the legislator negotiating beyond the frame of publicity provided by the Treaties. At the same time it provides for a critical analysis of the novelties in the field of charging of heavy goods vehicles on the EU’s roads and reveals that the Council is the true decision-maker in this very legislative project, whereas the Parliament, and even more the Commission, were less able to push through their views. The new Directive has brought some progress in the development of European transport policy, but it could not meet the high expectations this legislative project was accompanied by from its very beginning.

*Keywords:* charging of heavy goods vehicles, co-decision, Directive 2011/76/EU, distribution of power within the EU, *Eurovignette* Directive, ordinary legislative procedure, transport policy

**Introduction**

With the entering into force of Directive 2011/76/EU (the ‘*Eurovignette* Directive’) European transport policy has entered a new stage.

The charging of heavy goods vehicles (HGV) has been a contested issue ever since, and the proposed ‘internalisation of external costs’ (see below) has added another aspect to be discussed in the course of the adoption of this highly contested piece of legislation.

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The idea of charging vehicles for the cost they produce, was seized by the Commission as early as 1995 in a Green Paper (Commission, 1995).

The subject matter of the Eurovignette Directive is the charging of HGV, more concretely the amendment of Directive 1999/62/EC on the charging of HGV for the use of certain infrastructures (overview over the 1999 regime in Epinay, 2003, pp. 102 ff). Directive 1999/62/EC was already amended in 2006 (see Hartl and Wagner, 2006), at which time the EP and the Council stated that the Commission shall present, ‘after examining all options including environment, noise, congestion and health-related costs, a generally applicable, transparent and comprehensible model for the assessment of all external costs1 to serve as the basis for future calculations of infrastructure charges’ (Article 11 of Directive 1999/62/EC as amended by Directive 2006/38/EC), that is to say, for calculations to internalise in the charge the external costs produced by the respective road user – in accordance with the ‘polluter pays principle’ proclaimed in the Commission’s White Paper on Transport Policy (Commission, 2001). The EU has furthermore signed, though not yet ratified, the Protocol on Transport.2 Accordingly, the Commission undertook a comprehensive survey. It performed, among other things, various stakeholder consultations (Commission, 2008c, pp. 9 ff), checked a variety of policy options and made an impact assessment of the internalisation of external costs (Commission, 2008c, p. 48 f; see also Commission, 2008b; Commission, 2008c, p. 435). One of the main findings of its analysis is that the various tax and charge systems across the Member States ‘fail to give the right price signals to users’ (Commission, 2008c, p. 2 f). Since the 1999 Directive as amended in 2006 did not allow for a charging relative to the external costs HGV produce, the Commission worked on a proposal for an amendment of the Directive.

1 The term ‘external costs’ at any rate comprises the cost of air and noise pollution due to traffic, but might also be used in a wider sense, ie including the cost of congestion. For the (varying) definitions in different legal texts of the term ‘external costs’ see Ehlotzky and Kramer 2009. For arguments against the internalisation of external costs see eg Baum et al 2008.

1. The Proposal of the Commission


In this proposal – COM (2008) 436 final (Commission, 2008e) – the Commission then, based on its findings as documented in the staff working paper, proposes to set transport prices in a way that ‘better reflect[s] the costs of the actual use of vehicles … in terms of pollution, congestion and climate change’ (Commission, 2008e, p. 2). The aim of the proposed regime is to fairly distribute the costs for transport – by means of levying charges – to the producers of these costs. A considerable amount of these costs on society – health costs, loss of production due to air and noise pollution and accidents, wasting of time and fuel in congestion, climate change – are caused by road freight transport which is growing steadily (Commission, 2008e, p. 3).

By the time the Commission makes its proposal, a wide variety of charging systems could be found in the Member States: time-based charges, distance-based charges (tolls), fuel taxes, vehicle taxes etc. According to the Commission, the ways these systems are applied ‘fail to send the right price signals’ to the road users (Commission, 2008e, p. 3). The Commission has envisaged a balanced pricing system which allows to consider the travelled distance, the environmental performance of the vehicle, the travelling time (peak or off peak), the space (densely populated area or not). The best charging tool to consider all these factors, according to the Commission, are tolls.

The new regime proposed by the Commission would enable the Member States to add to infrastructure tolls levied on HGV an amount for the costs of air and noise pollution produced by the traffic. During peak periods, tolls can also be calculated on the basis of the costs of congestion imposed on other vehicles (Commission, 2008e, p. 9 – Article 1 para 2). This system allows for different tolls charged, based on factors such as distance, location and time. Member States are free to introduce tolls or user charges on their road network or on certain sections of that network, but if they decide to do so, they are bound by the provisions of the Eurovignette Directive (Commission, 2008e, Article 1 para 2; for the Swiss charging system see Epiney and Heuck, 2011, pp. 47 ff).
States shall use either tolls or user charges within their territory – not both (Commission, 2008e, Article 1 para 2). However, the levying of tolls for the use of bridges, tunnels and mountain passes is allowed in either case.

If a Member State has decided to charge external costs, this charge shall be set by an authority legally and financially independent of the organisation competent to manage or collect part or all of the charge. If this organisation is controlled by the Member State, however, the authority may be an administrative entity of this Member State (Commission, 2008e, Article 1 para 2).

The Member States have to use the proceeds of the toll system for fostering the sustainability of transport (eg by subsidising research on cleaner and more energy efficient vehicles or by providing the infrastructure for alternative means of transportation). Those Member States which are levying charges within the scope of the new regime must respect common charging principles in combination with mechanisms for notifying and reporting tolling schemes to the Commission. The charges must be calculated by independent authorities, and collected through electronic systems (Commission, 2008e, p. 9).

The Commission transmits its proposal to the Council and to the EP on 11 July 2008. For reasons of completeness, a Corrigendum of the Commission from 8 August 2008 containing minor – non-substantial – amendments should be mentioned.

2. The Opinion of the Committee of the Regions

By 12 February 2009 the CR issues its opinion on the proposal. The opinion is, in principle, positive as it regards the attempt to internalise external costs. However, there are some points the CR is critical about. The CR misses further complementary measures to make eg railways a more attractive alternative to the road (Committee of the Regions, 2009, para 5). The CR would furthermore endorse a more comprehensive consideration of all external costs ‘across the whole network’ (Committee of the Regions, 2009, para 32), and doubts the effectiveness of congestion charges in view of the ‘demands of the economy’, ie just in time deliveries (Committee of the Regions, 2009, para 28).
3. The Position of the Parliament at First Reading


On 18 February 2009 the Parliament issues its Report on the proposal (European Parliament, 2009, Report II). This report contains 1) a draft legislative resolution, ie a draft of the amendments proposed by the Parliament; 2) an explanatory statement, in which the reasons for the amendments proposed are given; and 3) an opinion of the Committee on Industry, Research and Energy (ITRE; for the TRAN) which itself contains concrete proposals for amendment. In the explanatory statement the EP states that under the current legal framework, that is Directive 1999/62/EC as amended in 2006, the Member States – ‘effectively’ – are not allowed to charge heavy goods vehicles over 12 tonnes (from 2012 onwards: 3.5 tonnes) for external costs on roads which are part of the TEN network (European Parliament and Council, 1996). The TEN-T includes ‘the main routes of land communication’ in the European Union (Liepe et al, 2011, p. 5). In all other cases, Member States are free to charge ‘whatever external costs they want’, limited only by the principles of non-discrimination and proportionality. The Commission proposal would allow Member States to introduce a charge levied through a toll for certain external costs, thereby extending the scope of the Directive to all roads (apart from urban areas). This means that once a Member State decides to charge for infrastructure and external costs on one of its roads, it will have to comply with the Directive.

The European Parliament has been in favour of an internalisation of external costs for years (European Parliament, 2009, Report II, p. 44).

On 11 March 2009 the Parliament launches its position at first reading which is forwarded to the Council and to the Commission. In this position the Parliament proposes amendments of 15 Articles. Since this number as such does not say anything about the substance, let alone the significance of the amendments, the most important proposals for amendment shall be presented here:

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3 The Trans-European Transport Network (TEN-T) describes itself as a ‘single, multimodal network that integrates land, sea and air transport networks throughout the Union’ <http://ec.europa.eu/transport/infrastructure/index_en.htm> accessed 21 January 2013. There are two other TENs – one for energy and one for telecommunications.
1) The Parliament proposes to limit the scope of the Directive to roads which belong to the trans-European road network or roads (or sections thereof), which ‘customarily carry a significant volume of international transport of goods’ (Article 7 para 1).

2) Whereas the Commission in Article 7a para 1 provides for a minimum threshold for the charges for external costs to be levied by the Member States, the Parliament proposes a maximum threshold.4

3) In Article 7c the Parliament inserts a new para 3 which excludes from the external costs charge vehicles which ‘comply with future EURO emissions standards in advance of the dates of applicability laid down in the relevant rules’.

4) The EP wants to ensure that the revenue generated by the charge is used by the Member States for the reduction or, where possible, elimination of the external costs arising from road transport (cf Article 9 para 2).

5) The EP intensifies the duties to report both of the Commission and of the Member States which have introduced an external cost charge (cf Article 11).

6) In table 1 of the annex to the proposal, the EP partly lowers the chargeable air pollution costs of a vehicle, thereby defining these numbers as a maximum threshold; and explicitly includes motorways in the scope of this particular regime – the wording of the Commission proposal has left this unclear –, thereby limiting the latitude the Member States have when implementing the Directive.

Summing up, the amendments proposed by the Parliament, it is apparent that the Parliament was eager not ‘to give the road transport sector the kiss of death in these economically difficult times’ (El Khadraoui, 2009). The proposal, which is considered a ‘minor revolution in itself’, is amended in two directions: While the duties of the Member States were increased, the duties of the road users falling under the proposal were attenuated.

4 In detail, the Commission’s charging regime provides that the annual rate shall be no less than 80 times the daily rate, the monthly rate no less than 13 times the daily rate, and the weekly rate no less than five times the daily rate. The Parliament, on the contrary, proposes that the monthly rate shall be no more than 10% of the annual rate, the weekly rate no more than 5% of the annual rate, and the daily rate no more than 2% of the annual rate. The maximum threshold – on average – provides for significantly lower charges than the minimum threshold.
A contested issue, if not the ‘wedge issue’ among the factions of the Parliament, is whether or not to include the ‘cost of congestion’ in the external costs (cf Article 7b) – especially the conservative PPE-DE Group was fervently against such an inclusion (Wortmann-Kool, Queiró, Ţicău, all 2009; against them Sterckx, Zile, Lichtenberger, Meijer, all 2009). The situation in the Council was, by the way, not very different (Council, 2009). The position of the Parliament at first reading is the expression of a compromise: The cost of congestion remains included in the external costs, but the scope of the proposal is limited, and the chargeable air pollution costs of a vehicle are – on average – lowered.

The Commission informs the EP of its position on the amendments. The Commission’s position is: ‘partial agreement’.  

4. The Position of the Council at First Reading

Now it is the Council which discusses the proposal as amended by the Parliament. The information on the deliberations is scarce. From a press release we are informed that ‘the Council [holds] a public policy debate on a draft Eurovignette directive and invite[s] its preparatory bodies to continue examination of this proposal’ (Council, 2009, p. 2). The Council holds a debate – it has already discussed the Commission proposal in December 2008, still under the French Presidency – in particular on the question of congestion and announced that its preparatory bodies will address, above all, the scope of the Directive, congestion charging including maximum charges, action plan, earmarking and peripheral areas (Council, 2009, p. 7). The proposal is highly contested and therefore some of the issues regulated therein are finally dealt with as a B-point – that is a point which the COREPER cannot agree on.

On 2 December 2009 the Commission issues a Communication to the Parliament and to the Council, informing these institutions about the changes the Lisbon Treaty, which entered into force the day before, would bring about in the context of ongoing

legislative procedures (Commission, 2009). As it regards the legislative procedure at issue, the ramifications are limited to the renumbering of Articles.\footnote{The legal basis of the proposal is renumbered from Article 71 para 1 TEC to Article 91 para 1 TFEU, and the procedure to be applied (ordinary legislative procedure) is now regulated in Article 294 TFEU (instead of Article 251 TEC). Critically as regards the legal basis: Ireland, the United Kingdom and Sweden. They would have preferred the Directive to be based (solely or also) on Article 113 TFEU; Council, ‘Addendum to “I/A” item note’ 13134/11 ADD 1, pp. 2 ff.}

5. The Opinion of the Economic and Social Committee

On 16 December 2009 the ESC submits its opinion on the proposal (Economic and Social Committee, 2010). The ESC is, in principle, in favour of the Commission’s proposal. In particular, it does not oppose to the inclusion in the external costs of the costs of congestion. The ESC would endorse a differentiated system for vehicles based on the pollution or noise they produce (Economic and Social Committee, 2010, para 4.7).

6. The Position of the Council at First Reading – continuing

Following the COREPER discussions on 15 and 29 September 2010, the Belgian Presidency has proposed a ‘compromise package’ (Council, 2010). In this package a solution for some of the contested issues is proposed as follows: First, the amount of that part of the toll which is assigned to the item ‘congestion costs’, according to this proposal, needs to be defined by the Euro emission category of the vehicle concerned, the distance travelled, the location and the time of use of roads. Secondly, the Member States have to use the revenue received through this toll system to projects relating to the sustainable development of transport (‘earmarking’). Thirdly, the scope of the Directive is extended beyond the TEN-T – in accordance with the Commission proposal (Council, 2010). In 2006 still the Commission refused to propose such an extension in order to comply with the principle of subsidiarity – this view has been revisited, it appears (Ehlotzky and Kramer, 2009, p. 196). The outstanding issues – eg the questions of exempting EURO VI vehicles from air pollution charges, of a maximum toll variation to reduce congestion or of the inclusion of vehicles between 3.5 and 12 tonnes (Council, 2010, pp. 2 f) – remain to be discussed and agreed on by the Council.
On 19 October the Council submits its position at first reading which it has adopted by qualified majority, thereby deviating considerably from the above ‘compromise package’ proposed by the Belgian Presidency (Council, 2010). On the basis of the Parliament’s position at first reading, the Council proposes amendments which mitigate the clout of the proposal. This includes measures to attenuate the road users’ duties as well as the re-establishment of leeway for the Member States’ discretion which was limited considerably by the EP’s amendments. In this vein the Council, among other things, extends the possibilities of the Member States to exempt vehicles of less than 12 tonnes from the charging system (Article 7 para 5 of the proposal as amended by the Council at first reading. As we shall see, this is the version in which this provision is finally adopted in 2011), further lowers the maximum charges (Article 7a para 1 in combination with Article 7f para 3 lit c of the proposal as amended by the Council at first reading), in principle does not provide for the inclusion of congestion costs in the charging system (Article 7c para 1 of the proposal as amended by the Council at first reading), replaces the earmarking duty of the Member States by a mere earmarking desire (Article 7g para 3 lit e of the proposal as amended by the Council at first reading), and abolishes the competence of the Commission to adapt the annexes of the proposal in the course of comitology proceedings.

7. The Position of the Commission

On 15 February 2011 the Commission informs the Parliament of its position on the Council’s proposals in accordance with Article 294 para 6 TFEU (Commission, 2011). The Commission claims that the primary objectives of the Commission proposal – that is to allow the Member States to internalise the most relevant external costs in the charging of HGV and to extend the scope of the Directive beyond the TEN-T – have been maintained in the Council’s position (Commission, 2011, pp. 2 f). Subsequently, the Commission lists the most important amendments proposed either by the Parliament or the Council, and expresses its view on them. All in all, the Commission decides to endorse the proposal as amended by the Parliament and the Council (Commission, 2011).

See, however, Article 7f para 3, which allows for the consideration of the problem of congestion when levying mere infrastructure tolls.
8. **The Second Reading – A Compromise**

On 7 June 2011 the Parliament issues its position at second reading. In some instances it amends the amendments proposed by the Council, thereby again reducing the Member States’ leeway in implementation. The Parliament, for example, concretises the mechanism to vary infrastructure charges at peak periods as proposed by the Council.

The inclusion of vehicles between 3.5 and 12 tonnes remains obligatory in principle, but subject to the wide exceptions which the Council at first reading even extended further – exceptions which any Member State willing to make use of shall be able to meet.\(^8\) This is why the EP at first reading – with a similar justification (‘completely arbitrary scope’) – proposed to delete these exceptions – by then still in the version of the Commission proposal (European Parliament, 2009, amendments 28 f).

As regards the question of ‘earmarking’, the Parliament introduced a 15% threshold – that means that Member States have to use at least 15% of the revenues on the trans-European network in order to fulfil their earmarking obligations. Furthermore, they have to report on the revenues received and on the investments made in transport. The position of the Parliament hardly comes as a surprise for the Council, since the two legislative institutions have, negotiating also with the Commission (‘trilogue’), reached a compromise already on 23 May 2011 (Commission, 2011b, p. 5; see recital 40 of the Directive as amended).

The Commission delivers its opinion on the proposal on 19 July 2011 and amends its original proposal according to the compromise found between the Parliament and the Council (Article 293 para 2 TFEU; Commission, 2011b; for the opposing positions of the institutions on up to which point in time the Commission is entitled to amend or withdraw its proposal see European Parliament, 2012). The compromise, *inter alia*, provides for a different approach towards the issue of ‘correlation tables’, ie tables indicating the measures taken by the Member States transposing the Directive. While originally Member States would have been bound to submit such correlation tables, the

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\(^8\) Cf Article 7 para 5 of the 2011 Directive: The wording ‘amongst others’ even suggests that the provision does not contain an exclusive enumeration, but might be subject to further exceptions. The Council in its Report (Council, 2010), para 4 subpara 3, remarked that most delegations pointed out that the proposal of the Commission is ‘not clear enough regarding how much flexibility Member States have’ according to Article 7 para 5. With its further extension of the exception as proposed at first reading, the Council made it even more clear that the Member States shall have ‘a lot’ of flexibility.
compromise abolishes the respective provision in the Directive – an amendment which was demanded by the Council –, and replaces it by a recital encouraging the Member States to follow this practice (Commission, 2011b, p. 5 Annex). The Commission *nolens volens* agrees (Council, ‘Addendum to “I/A” item note’ 13134/11 ADD 1, p. 5).

On 12 September⁹ the Council for General Affairs adopts the proposal, now as an A-point – only the Spanish and the Italian delegations vote against the proposal, whereas the Irish, the Netherlands and Portuguese delegations abstain (Council, 2011, p. 15).

### 9. Signature, Publication, and Entry into Force


The amended Directive sets in place a toll regime which varies depending on the emissions of the vehicle, the distance travelled, the location and the duration.

### 10. The amendments of Directive 2011/76/EU in short

The most important novelties introduced by Directive 2011/76/EU can be summarised as follows (Article numbers are now referring to the 1999 Directive as amended):

- The scope of the Directive is extended. It now covers not only the TEN-T, but also the Member States’ network of motorways which are not part of the TEN-T (Article 7 para 1).
- Member States shall impose either tolls or user charges – only for the use of bridges, tunnels and mountain passes tolls may be imposed in either case (Article 7 para 2).

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⁹ In a press release from June 2011 the Commission announced that the Council will give its formal approval of the proposal ‘before the summer’. Although this prognosis has turned out to be too optimistic, the fact that the Commission can foresee how the Council will vote, proves the assumption that there is a lot of informal discussions going on between the institutions involved – beyond the official meetings; Commission, 2011c.
Once Member States have decided to impose tolls or user charges, they must apply them to all vehicles over 3.5 tonnes; vehicles below 12 tonnes, however, may be excluded if an inclusion would ‘create significant adverse effects on the free flow of traffic, the environment, noise levels, congestion, health, or road safety due to traffic diversion’ or ‘involve administrative costs of more than 30% of the additional revenue which would have been generated by that extension’. If a Member State applies such an exemption, it has to report this to the Commission, giving the reasons for its decision (Article 7 para 5 in combination with Article 2 lit d).

User charges shall be proportionate to the duration of the use made of the infrastructure, not exceeding the values laid down in Annex II. The charges which shall be valid for a day, a week, a month or a year, are furthermore subject to the following limitation: a monthly rate shall not exceed 10%, a weekly rate 5%, and a daily rate 2% of the annual rate. For the vehicles registered in a respective Member State, it is permitted to apply only annual rates (Article 7a para 1).

Whereas the infrastructure charge shall be based on the principle of the recovery of infrastructure costs, the external-cost charge may be related to the cost of traffic-based air pollution and, if road sections are crossing areas with a population exposed to road traffic-based noise pollution, may also include the cost of this pollution. The external-cost charge must be calculated using certain methods (laid down in Annex IIIa), and must not exceed certain maximum levels (laid down in Annex IIIb). Whereas the costs of congestion must not be included in the external-cost charge, the infrastructure charge may be varied in order to reduce congestion (Article 7g para 3). In mountainous regions, higher charges can be set (Article 7f). Vehicles complying with the most stringent EURO emission standards (EURO VI) are exempted from the charges until 31 December 2017, EURO V vehicles until 31 December 2013. The external-cost charge shall be set for each Member State by an authority legally and financially independent from the organisation in charge of managing or collecting part or all of the charge (Article 7c).

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- At least six months before the implementation of a new infrastructure charge tolling arrangement a Member State has to inform the Commission thereof, thereby providing information of the details of the system (Article 7h).
- Member States have to determine the use of revenues received under the Directive. They should invest the proceeds in a way which makes transport more sustainable. If they use at least 15% of the proceeds generated from infrastructure and external cost charges for policies which leverage financial support to the TEN-T, this aim shall be complied with (Article 9 para 2).

11. Directive 2011/76/EU – A Chronology of Events

Conclusion
Comparing the Commission proposal at the outset of this legislative project and the final act which was published in the Official Journal has a sobering effect. What started as a promising idea developed into a flat compromise which largely deprives the original proposal of its innovative clout. Others regard the outcome still as ‘a vital centre-piece of the future European Union’s transport policy’ (Liepe et al, 2011, p. 1). A more moderate assessor would come to the conclusion that a compromise is always
something less than the parties involved each were demanding in the beginning and hence it is only natural that the final act has lost some rigour.

What we have seen here was an – in many respects typical – example of EU legislative procedures. At the beginning there is a proposal from the Commission, at the end there is a legislative act, published in the *Official Journal*. In between there are three and a half years of opinions, positions and corrigenda; thus far for the procedure. Behind these formalised expressions of opinion, there arguably are dozens of informal meetings between MEPs, ministers or their substitutes, the competent Commissioner, and representatives of various interest groups. By participating in this discourse, politicians, bureaucrats, lobbyists etc can find out how the land lies with respect to a certain legislative procedure. This discourse is of pivotal importance to ensure that legislation is adopted – more or less – swimmingly. The disadvantage of this discourse is that it largely takes place – if not behind closed doors – at least beyond public perception. This fact contributes to a significant intransparency of the legislative processes – not only in the EU.

The time line above shows considerable gaps between the single steps of the procedure – gaps which can be and actually are used for performing informal discussions and also negotiations. Sometimes the formal structure of the ordinary legislative procedure might even be impeding timely agreements. This is proven, for example, by the fact that in May 2011 the EP, the Council and the Commission have already found a compromise which was then, in June 2011, proposed by the EP at second reading in the form of amendments, once again accepted by the Commission in the form of a new – accordingly adapted – proposal, and unsurprisingly approved by the Council at second reading. The thronged chain of events starting with the EP’s position at second reading in June emphasises the impression – or rather: the fact – that since then the political discourse was largely muted and the institutions moved forward to reach the adoption of the act as fast as possible – not least given the three months deadline each for the EP’s and Council’s decision at second reading. In other words, the sequence of procedural steps did and could not always keep pace with the actual course of negotiations. Here the procedure laid down in Article 294 TFEU rather appeared as a cumbersome legislative etiquette guide which the actors involved complied with as an obligation, but the outcome of which was largely coined by negotiations beyond the regime of this
provision. Now the question arises whether such a practice does justice to the demands of a legitimate legislative procedure. Those who would answer in the affirmative, could bring forward the following argument: Decision-making is a dialectic process – in general, but especially when it involves a plurality of actors, it always entails an organic sequence of thinking, arguing and trying to convince the respective other (European Parliament, 2009, facilitating informal negotiations). In light of this finding, Article 294 can only be seen as a frame which the legislator needs to comply with, but which is intended to accommodate further steps which are not expressis verbis laid down in this provision. Those who refuse such a practice could argue that the requirements of transparency, that is publicity of the decision-making and comprehensibility of the steps taken, are only fulfilled if the opinion-making is primarily taking place in the procedural steps envisaged by Article 294 TFEU.

The time taken for this legislative project – three and a half years – is not uncommonly long for a contested subject matter. Also in case of the 2006 Directive it took three years from the proposal to the adoption – and here again a political compromise was reached at an informal trilogue, before the EP – in accordance with that compromise – proposed amendments at second reading, and the Council approved them (Hartl and Wagner, 2006, p. 4).

The ambitious goals of the Commission proposal could not be realised in full. This was prevented by the EP, but above all by the Council. Member States’ interests are very diverse in this respect, depending on whether a Member State is first and foremost benefiting from a benign charging system, or whether it is – as a ‘transit country’ – also suffering from the implications of goods traffic (Hartl and Wagner, 2006, p. 8; Obwexer, 2005, p. 663; Schroeder, 2011, p. 160; see also the decision of the ECJ in the case C-205/98 Commission v Austria [2000] ECR I-7367 in which parts of Austria’s road charging system were reviewed, still in the context of the predecessor Directive 93/89/EEC). It is this ‘cleavage between economy and ecology’ which is apparent throughout this legislative process (Schroeder, 2011, p. 153). However, from a transport policy point of view it is clear that the new Directive is only a further step on the way towards harmonisation of charging systems and towards full internalisation of (all) external costs. The 2011 White Paper on transport gives an idea on how the Commission plans to create – à la longue – what it calls a Single European Transport
Area (Commission, 2011d; for a summary of this White Paper see Liepe et al, 2011, pp. 17 f).
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