

DIRECTIVE 2007/38/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 11 July 2007
on the retrofitting of mirrors to heavy goods vehicles registered in the Community

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71(1)(c) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) A number of accidents are caused by drivers of heavy goods vehicles who are not aware that other road users are very close to or beside their vehicle. These accidents are often related to a change of direction at crossings, junctions or roundabouts when drivers fail to detect other road users in the blind spots which exist in the area immediately around their vehicles. It is estimated that every year about 400 people in Europe are killed in such circumstances, most of them being vulnerable road users such as cyclists, motorcyclists and pedestrians.
- (2) In its White Paper of 12 September 2001 'European transport policy for 2010: time to decide' the Commission set the target of halving the number of road fatalities in the EU by 2010. In its third Road Safety Action Programme the Commission committed itself to investigating the issue of retrofitting heavy goods vehicles already in circulation with devices for indirect vision in order to reduce their blind spots and thus to contribute to the reduction of road fatalities.
- (3) In its 10 year roadmap in the Final Report 'A Competitive Automotive Regulatory System for the 21st

century', the CARS 21 High Level Group recommended an integrated approach with regard to road safety including the compulsory introduction of new safety features, such as mirrors to reduce the blind spots of heavy goods vehicles.

- (4) Devices of indirect vision, such as wide-angle and close-proximity mirrors, cameras, monitors, or other type-approved systems of indirect vision, improve the driver's field of vision and increase vehicle safety.
- (5) Directive 2003/97/EC of the European Parliament and of the Council of 10 November 2003 on the approximation of the laws of the Member States relating to the type approval of devices for indirect vision and of vehicles equipped with these devices ⁽³⁾, whilst having great potential for reducing the number of casualties affects only newly registered vehicles.
- (6) Vehicles which are already in circulation are therefore not subject to the obligations set out in Directive 2003/97/EC. It can be estimated that those vehicles will not be fully replaced until 2023.
- (7) In order to help reduce fatal and severe accidents caused by those vehicles and involving vulnerable road users, it is appropriate, in the meantime, to provide that the vehicles concerned be retrofitted with improved devices for indirect vision.
- (8) Vehicles already in circulation should be equipped with mirrors reducing the lateral blind spots whilst fulfilling the technical requirements of Directive 2003/97/EC. That is technically feasible for the majority of the vehicles concerned.
- (9) It is, however, appropriate and proportionate to provide exemptions and derogations for vehicles whose remaining lifespan is short, vehicles which are equipped with lateral mirrors whose field of vision covers only marginally less than the fields of vision laid down in Directive 2003/97/EC, and vehicles where fitting with mirrors complying with that Directive is not economically viable.

⁽¹⁾ Opinion of 14 March 2007 (not yet published in the Official Journal).

⁽²⁾ Opinion of the European Parliament of 10 May 2007 (not yet published in the Official Journal) and Council Decision of 25 June 2007.

⁽³⁾ OJ L 25, 29.1.2004, p. 1. Directive as last amended by Council Directive 2006/96/EC (OJ L 363, 20.12.2006, p. 81).

- (10) Vehicles in categories N₂ and N₃ which were originally registered and/or type-approved and/or put into service before 1 January 2000 and which are operated mainly for their historical interest should not be affected by the rules and procedures laid down in this Directive.
- (11) For heavy goods vehicles which, for technical and/or economic reasons, cannot be made to fully comply with the requirements of this Directive, the competent authorities should allow for and approve alternative solutions. In such cases, Member States should communicate lists of permitted and approved technical solutions to the Commission, which should in turn make them available to all Member States.
- (12) So that the market can cope with a high demand for mirrors within a short period of time, a transitional period should be provided for.
- (13) Heavy goods vehicles retrofitted before the dates for transposition of Directive 2003/97/EC with devices of indirect vision which largely cover the field of vision required by that Directive should be exempted from the requirements of this Directive.
- (14) The retrofitting exercise should be accompanied by appropriate measures designed to raise awareness of the dangers linked to the existence of blind spots of heavy goods vehicles, including information efforts directed towards vulnerable road users and in relation to the correct adjustment and use of indirect vision devices.
- (15) Vehicles other than those covered by this Directive, such as light goods vehicles and buses, which are not equipped with improved devices for indirect vision are also involved in blind spot accidents. Therefore, Community legislation on active and passive safety requirements should be continually reviewed with a view to improving and promoting road safety.
- (16) In the interests of a more comprehensive analysis and a future strategy on reducing blind spot accidents, the Commission should, pursuant to Council Decision 93/704/EC of 30 November 1993 on the creation of a Community database on road accidents⁽¹⁾ and other relevant Community acts, such as Decision No 2367/2002/EC of the European Parliament and of the Council of 16 December 2002 on the Community statistical programme 2003 to 2007⁽²⁾, gather relevant data from the Member States and process it appropriately.
- (17) Council Directive 96/96/EC of 20 December 1996 on the approximation of the laws of the Member States relating to roadworthiness tests for motor vehicles and their trailers⁽³⁾ provides for periodic roadworthiness tests for motor vehicles used for the carriage of goods and having a maximum permissible mass exceeding 3,5 tons, at least on a yearly basis. Heavy goods vehicles should, among others things, be fitted with rear-view mirrors complying with the requirements of this Directive in order to pass this roadworthiness test. Roadworthiness certificates issued by the Member States for vehicles registered on their territory are mutually recognised for the purpose of the free circulation of vehicles on Member State roads.
- (18) Since the objective of this Directive, namely the retrofitting of vehicles already in circulation in the Community, cannot be sufficiently achieved by the Member States and can therefore, by reason of its scale and effects, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.
- (19) In accordance with point 34 of the Interinstitutional Agreement on better law-making⁽⁴⁾, Member States are encouraged to draw up, for themselves and in the interest of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

This Directive lays down requirements for the fitting with systems of indirect vision of vehicles of categories N₂ and N₃ as referred to in point 2 of Annex II, Section A to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers⁽⁵⁾ which are registered in the Community.

⁽¹⁾ OJ L 329, 30.12.1993, p. 63. Decision as amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1).

⁽²⁾ OJ L 358, 31.12.2002, p. 1. Decision as amended by Decision No 787/2004/EC (OJ L 138, 30.4.2004, p. 12).

⁽³⁾ OJ L 46, 17.2.1997, p. 1. Directive as last amended by Regulation (EC) No 1882/2003.

⁽⁴⁾ OJ C 321, 31.12.2003, p. 1.

⁽⁵⁾ OJ L 42, 23.2.1970, p. 1. Directive as last amended by Directive 2007/37/EC (OJ L 161, 22.6.2007, p. 60).

Article 2

1. This Directive shall apply to vehicles of categories N₂ and N₃ which are not type-approved or approved as a single vehicle under Directive 2003/97/EC.

2. This Directive shall not apply to any of the following:

(a) Vehicles of categories N₂ and N₃ registered before 1 January 2000;

(b) Vehicles of category N₂ having a maximum total permissible mass not exceeding 7,5 tons, where it is impossible to mount a class V mirror in a way that ensures that the following conditions are fulfilled:

(i) no part of the mirror is less than 2 m (a tolerance of + 10 cm may be applied) from the ground, regardless of the adjustment position, when the vehicle is under a load corresponding to its maximum technically permissible weight; and

(ii) the mirror is fully visible from the driving position;

(c) Vehicles of categories N₂ and N₃ that are subject to national measures which entered into force before the dates for transposition of Directive 2003/97/EC and which require fitment, on the passenger side, of other means of indirect vision covering not less than 95 % of the total field of vision at ground level of class IV and class V mirrors under that Directive.

Article 3

1. With effect from 6 August 2007, and not later than 31 March 2009, Member States shall require that all vehicles referred to in Article 2(1) be equipped, on the passenger side, with wide-angle and close-proximity mirrors which fulfil the requirements for class IV and class V mirrors under Directive 2003/97/EC respectively.

2. By way of derogation from paragraph 1, compliance with the requirements of this Directive shall be deemed to be achieved where vehicles are equipped, on the passenger side, with wide-angle and close-proximity mirrors, whose combination of fields of vision covers not less than 95 % of the field of vision at ground level of a class IV mirror and not less than 85 % of the field of vision at ground level of a class V mirror under Directive 2003/97/EC.

3. Vehicles referred to in Article 2 which, for want of available, economically viable, technical solutions, cannot be equipped with mirrors complying with the requirements set out in paragraphs 1 or 2 of this Article, may be equipped with supplementary mirrors and/or other devices of indirect vision, provided that the combination of such devices covers not less than 95 % of the field of vision at ground level of a class IV mirror and not less than 85 % of the field of vision at ground level of a class V mirror under Directive 2003/97/EC.

4. Member States shall communicate a list of technical solutions complying with this Article to the Commission. The Commission shall make the information notified publicly available, via its website or any other appropriate means, to all Member States.

Article 4

1. Compliance with the requirements set out in Article 3(1), (2) and (3) shall be established through proof furnished by a Member State in accordance with Article 3 of Directive 96/96/EC.

2. The Commission, assisted by the committees referred to in Article 8 of Directive 96/96/EC and Article 13(1) of Directive 70/156/EEC, each within their respective remits, shall take the appropriate measures to ensure that the equipment referred to in Article 3 of this Directive is installed and tested in order to establish its compliance and roadworthiness in accordance with the requirements of this Directive. These measures shall be taken not later than 6 August 2008.

Article 5

By 6 August 2011 the Commission shall submit to the European Parliament and to the Council a report on the implementation of this Directive together with a study on blind spot accidents covering all vehicles and costs incurred, with the aim of improving road safety. On the basis of a more comprehensive cost-benefit analysis, the Commission's report shall be accompanied, if appropriate, by a proposal for the revision of existing legislation.

Article 6

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 6 August 2008. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 7

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 8

This Directive is addressed to the Member States.

Done at Strasbourg, 11 July 2007.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

M. LOBO ANTUNES
