

Directive (EU) 2019/520 of the European Parliament and of the Council of 19 March 2019 on the interoperability of electronic road toll systems and facilitating cross-border exchange of information on the failure to pay road fees in the Union (recast) (Text with EEA relevance)

CHAPTER II

GENERAL PRINCIPLES OF EETS

Article 4

Registration of EETS providers

Each Member State shall establish a procedure for registering EETS providers. It shall grant the registration to entities which are established on its territory, which request registration and which can demonstrate that they fulfil the following requirements:

- (a) hold EN ISO 9001 certification or equivalent;
- (b) have the technical equipment and the EC declaration or certificate attesting the conformity of the interoperability constituents to specifications;
- (c) have competence in the provision of electronic toll services or in other relevant domains;
- (d) have appropriate financial standing;
- (e) maintain a global risk management plan, which is audited at least every two years; and
- (f) are of good repute.

Article 5

Rights and obligations of EETS providers

1 Member States shall take the measures necessary to ensure that EETS providers whom they have registered conclude EETS contracts covering all EETS domains on the territories of at least four Member States within the 36 months following their registration in accordance with Article 4. They shall take the measures necessary to ensure that those EETS providers conclude contracts covering all EETS domains in a given Member State within the 24 months following the conclusion of the first contract in that Member State, except for those EETS domains in which the responsible toll chargers do not comply with Article 6(3).

2 Member States shall take the measures necessary to ensure that EETS providers whom they have registered maintain at all times the coverage of all EETS domains once they have concluded contracts therefor. They shall take the measures necessary to ensure that, where an EETS provider is not able to maintain coverage of an EETS domain because the toll charger does not comply with this Directive, it re-establishes the coverage of the concerned domain as soon as possible.

3 Member States shall take the measures necessary to ensure that EETS providers whom they have registered publish information on their EETS domains coverage and any changes

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thereto, as well as, within one month of registration, detailed plans regarding any extension of their service to further EETS domains, with annual updates.

4 Member States shall take the measures necessary to ensure that, where necessary, EETS providers whom they have registered, or who provide the EETS on their territory, provide EETS users with OBE which fulfils the requirements set out in this Directive, as well as in Directives 2014/53/EU⁽¹⁾ and 2014/30/EU⁽²⁾ of the European Parliament and of the Council. They may request from concerned EETS providers evidence that those requirements are fulfilled.

5 Member States shall take the measures necessary to ensure that EETS providers who provide the EETS on their territory keep lists of invalidated OBE related to their EETS contracts with the EETS users. They shall take the measures necessary to ensure that such lists are maintained in strict compliance with the Union rules on the protection of personal data as set out, inter alia, in Regulation (EU) 2016/679 and Directive 2002/58/EC.

6 Member States shall take the measures necessary to ensure that EETS providers whom they registered make public their contracting policy towards EETS users.

7 Member States shall take the measures necessary to ensure that EETS providers who provide the EETS on their territory provide toll chargers with the information they need to calculate and apply the toll on the vehicles of EETS users or provide toll chargers with all information necessary to allow them to verify the calculation of applied toll on the vehicles of EETS users by the EETS providers.

8 Member States shall take the measures necessary to ensure that EETS providers who provide the EETS on their territory cooperate with toll chargers in their efforts to identify suspected offenders. Member States shall take the measures necessary to ensure that, where a failure to pay a road fee is suspected, the toll charger is able to obtain, from the EETS provider, the data relating to the vehicle involved in the suspected failure to pay a road fee and to the owner or holder of that vehicle who is a client of the EETS provider. Such data shall be made available instantly by the EETS provider.

Member States shall take the measures necessary to ensure that the toll charger does not disclose such data to any other toll service provider. They shall take the measures necessary to ensure that, where the toll charger is integrated with a toll service provider in one entity, the data are used for the sole purpose of identifying suspected offenders, or in accordance with Article 27(3).

9 Member States shall take the measures necessary to ensure that a toll charger responsible for an EETS domain on their territory is able to obtain, from an EETS provider, data relating to all vehicles owned or held by clients of the EETS provider, which have, in a given period of time, driven on the EETS domain for which the toll charger is responsible, as well as data relating to the owners or holders of these vehicles, provided that the toll charger needs this data to comply with its obligations to tax authorities. Member States shall take the measures necessary to ensure that the EETS provider provides the requested data no later than two days after receiving the request. They shall take the measures necessary to ensure that the toll charger does not disclose such data to any other toll service provider. They shall take the measures necessary to ensure that, where the toll charger is integrated with a toll service provider in one entity, the data are used for the sole purpose of compliance by the toll charger with its obligations to tax authorities.

10 The data provided by EETS providers to toll chargers shall be processed in compliance with Union rules on the protection of personal data as set out in Regulation (EU) 2016/679, as

well as with the national laws, regulations or administrative provisions transposing Directives 2002/58/EC and (EU) 2016/680.

11 The Commission shall adopt implementing acts, at the latest by 19 October 2019, to further define the obligations of the EETS providers regarding:

- a monitoring the performance of their service level, and cooperation with toll chargers in verification audits;
- b cooperation with toll chargers in the performance of toll chargers' systems' tests;
- c service and technical support to EETS users and personalisation of OBE;
- d the invoicing of EETS users;
- e the information which EETS providers must provide to toll chargers and which is referred to in paragraph 7; and
- f informing the EETS user of a detected toll non-declaration situation.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(2).

Article 6

Rights and obligations of toll chargers

1 Where an EETS domain does not comply with the technical and procedural EETS interoperability conditions provided for in this Directive, the Member State on whose territory the EETS domain lies shall take the measures necessary to ensure that the responsible toll charger assesses the problem with the stakeholders concerned and, if within its sphere of responsibilities, takes remedial actions with a view to ensuring EETS interoperability of the toll system. Where necessary, the Member State shall update the register referred to in Article 21(1) in respect of the information referred to in point (a) thereof.

2 Each Member State shall take the measures necessary to ensure that any toll charger responsible for an EETS domain on the territory of that Member State develops and maintains an EETS domain statement setting out the general conditions for EETS providers for accessing their EETS domains, in accordance with the implementing acts referred to in paragraph 9.

Where a new electronic road toll system is created on the territory of a Member State, that Member State shall take the measures necessary to ensure that the designated toll charger responsible for the system publishes the EETS domain statement with sufficient notice to allow for an accreditation of interested EETS providers at the latest one month before the operational launch of the new system, with due regard to the length of the process of assessment of conformity to specifications and of the suitability for use of interoperability constituents referred to in Article 15(1).

Where an electronic road toll system on the territory of a Member State is substantially modified, that Member State shall take the measures necessary to ensure that the toll charger responsible for the system publishes the updated EETS domain statement with sufficient notice to allow already accredited EETS providers to adapt their interoperability constituents to the new requirements and to obtain re-accreditation at the latest one month before the operational launch of the modified system, giving due regard to the length of the process of assessment of the conformity to specifications and of the suitability for use of interoperability constituents referred to in Article 15(1).

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3 Member States shall take the measures necessary to ensure that toll chargers responsible for EETS domains on their territory accept on a non-discriminatory basis any EETS provider requesting to provide EETS on the said EETS domains.

Acceptance of an EETS provider in a EETS domain shall be subject to the provider's compliance with the obligations and general conditions set out in the EETS domain statement.

Member States shall take the measures necessary to ensure that toll chargers do not require EETS providers to use specific technical solutions, or processes, that hinder the interoperability of an EETS provider's interoperability constituents with electronic road toll systems in other EETS domains.

If a toll charger and an EETS provider cannot reach an agreement, the matter may be referred to the Conciliation Body responsible for the relevant toll domain.

4 Each Member State shall take the measures necessary to ensure that the contracts between the toll charger and the EETS provider, regarding the provision of EETS on the territory of that Member State, permit the invoice for the toll to be issued to the EETS user directly by the EETS provider.

The toll charger may require that the EETS provider invoices the user in the name and on behalf of the toll charger, and the EETS provider shall comply with that request.

5 The toll charged by toll chargers to EETS users shall not exceed the corresponding national or local toll. This is without prejudice to the right of Member States to introduce rebates or discounts to promote the use of electronic toll payments. All OBE user rebates or discounts on tolls offered by a Member State or by a toll charger shall be transparent, publicly announced and available under the same conditions to clients of EETS providers.

6 Member States shall take the measures necessary to ensure that toll chargers accept on their EETS domains any operational OBE from EETS providers with whom they have contractual relationships which have been certified in accordance with the procedure defined in the implementing acts referred to in Article 15(7) and which do not appear on a list of invalidated OBE referred to in Article 5(5).

7 In the event of an EETS dysfunction attributable to the toll charger, the toll charger shall provide for a degraded mode of service enabling vehicles with the equipment referred to in paragraph 6 to circulate safely with a minimum of delay and without being suspected of a failure to pay a road fee.

8 Member States shall take the measures necessary to ensure that toll chargers collaborate in a non-discriminatory way with EETS providers or manufacturers or notified bodies with a view to assessing the suitability for use of interoperability constituents on their EETS domains.

9 The Commission shall adopt implementing acts, at the latest by 19 October 2019, to lay down the minimum content of the EETS domain statement, including:

- a the requirements for EETS providers;
- b the procedural conditions, including commercial conditions;
- c the procedure of accreditation of EETS providers; and
- d the toll context data.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 31(2).

Article 7

Remuneration

1 Member States shall take the measures necessary to ensure that EETS providers are entitled to be remunerated by the toll charger.

2 Member States shall take the measures necessary to ensure that the methodology for defining the remuneration of the EETS providers is transparent, non-discriminatory and identical for all EETS providers accredited to a given EETS domain. They shall take the measures necessary to ensure that the methodology is published as part of the commercial conditions in the EETS domain statement.

3 Member States shall take the measures necessary to ensure that in EETS domains with a main service provider, the methodology for calculating the remuneration of EETS providers follows the same structure as the remuneration of comparable services provided by the main service provider. The amount of remuneration of EETS providers may differ from the remuneration of the main service provider provided that it is justified by:

- a the cost of specific requirements and obligations of the main service provider and not of the EETS providers; and
- b the need to deduct, from the remuneration of EETS providers, the fixed charges imposed by the toll charger based on the costs, for the toll charger, of providing, operating and maintaining an EETS compliant system in its toll domain, including the costs of accreditation, where such costs are not included in the toll.

Article 8

Tolls

1 Member States shall take the measures necessary to ensure that where, for the purpose of establishing the toll tariff applicable to a given vehicle, there is discrepancy between the vehicle classification used by the EETS provider and the toll charger, the toll charger's classification prevails, unless an error can be demonstrated.

2 Member States shall take the measures necessary to ensure that the toll charger is entitled to require, from an EETS provider, payment for any substantiated toll declaration and any substantiated toll non-declaration relating to any EETS user account managed by that EETS provider.

3 Member States shall take the measures necessary to ensure that, where an EETS provider has sent to a toll charger a list of invalidated OBE referred to in Article 5(5), the EETS provider shall not be held liable for any further toll incurred through the use of such invalidated OBE. The number of entries in the list of invalidated OBE, the list's format and its updating frequency shall be agreed between toll chargers and EETS providers.

4 Member States shall take the measures necessary to ensure that, in microwave-based toll systems, toll chargers communicate to EETS providers substantiated toll declarations for tolls incurred by their respective EETS users.

5 The Commission shall adopt delegated acts in accordance with Article 30, at the latest by 19 October 2019, to lay down the details for the classification of vehicles for the purposes of establishing the applicable tariff schemes, including any procedures necessary for establishing

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such schemes. The set of vehicle classification parameters to be supported by EETS shall not restrict the choice of tariff schemes by toll chargers. The Commission shall ensure sufficient flexibility to allow the set of classification parameters to be supported by EETS to evolve according to foreseeable future needs. Those acts shall be without prejudice to the definition, in Directive 1999/62/EC of the European Parliament and of the Council⁽³⁾, of the parameters according to which tolls shall vary.

Article 9

Accounting

Member States shall take the measures necessary to ensure that legal entities which provide toll services keep accounting records which make a clear distinction possible between the costs and revenues related to the provision of toll services and the costs and revenues related to other activities. The information on the costs and revenues related to the toll service provision shall be provided, upon request, to the relevant Conciliation Body or judicial body. Member States shall also take the measures necessary to ensure that cross subsidies between the activities performed in the role of toll service provider and other activities are not allowed.

Article 10

Rights and obligations of EETS users

1 Member States shall take the measures necessary to allow EETS users to subscribe to EETS through any EETS provider, regardless of their nationality, Member State of residence or the Member State in which the vehicle is registered. When entering into a contract, EETS users shall be duly informed about valid means of payment and, in accordance with Regulation (EU) 2016/679, about the processing of their personal data and the rights stemming from applicable legislation on the protection of personal data.

2 The payment of a toll by an EETS user to its EETS provider shall be deemed to fulfil the EETS user's payment obligations to the relevant toll charger.

If two or more OBE are installed or carried on-board a vehicle, it is the responsibility of the EETS user to use or activate the relevant OBE for the specific EETS domain.

3 The Commission shall adopt delegated acts in accordance with Article 30, at the latest by 19 October 2019, to further define the obligations of the EETS users regarding:

- a the provision of data to the EETS provider; and
- b the use and handling of the OBE.

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- (1) Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC ([OJ L 153, 22.5.2014, p. 62](#)).
- (2) Directive 2014/30/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to electromagnetic compatibility ([OJ L 96, 29.3.2014, p. 79](#)).
- (3) Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures ([OJ L 187, 20.7.1999, p. 42](#)).