



September 2017  
AK Position Paper

# Mobility Package „Europe on the Move“ Directive on Toll Interoperability

COM (2017) 280

## About us

**The Austrian Federal Chamber of Labour is by law representing the interests of about 3.6 million employees and consumers in Austria. It acts for the interests of its members in fields of social-, educational-, economical-, and consumer issues both on the national and on the EU-level in Brussels. Furthermore the Austrian Federal Chamber of Labour is a part of the Austrian social partnership. The Austrian Federal Chamber of Labour is registered at the EU Transparency Register under the number 23869471911-54.**

**The AK EUROPA office in Brussels was established in 1991 to bring forward the interests of all its members directly vis-à-vis the European Institutions.**

### **Organisation and Tasks of the Austrian Federal Chamber of Labour**

The Austrian Federal Chamber of Labour is the umbrella organisation of the nine regional Chambers of Labour in Austria, which have together the statutory mandate to represent the interests of their members.

The Chambers of Labour provide their members a broad range of services, including for instance advice on matters of labour law, consumer rights, social insurance and educational matters.

Rudi Kaske  
President

More than three quarters of the 2 million member-consultations carried out each year concern labour-, social insurance- and insolvency law. Furthermore the Austrian Federal Chamber of Labour makes use of its vested right to state its opinion in the legislation process of the European Union and in Austria in order to shape the interests of the employees and consumers towards the legislator.

All Austrian employees are subject to compulsory membership. The member fee is determined by law and is amounting to 0.5% of the members' gross wages or salaries (up to the social security payroll tax cap maximum). 816.000 - amongst others unemployed, persons on maternity (paternity) leave, community and military service - of the 3.6 million members are exempt from subscription payment, but are entitled to all services provided by the Austrian Federal Chambers of Labour.

Christoph Klein  
Director

## The AK's position in detail

Toll interoperability, similar to interoperability in the field of mobile communications, aims to enable users to pay road fees on all roads within the entire European Union using a single on-board unit (=technical interoperability) under a single contract (=contractual interoperability on payment methods with toll chargers). This is the vision and basic requirement for a provider of a European Electronic Toll Service (EETS) as agreed in 2004 (Directive 2004/52/EC). However, the present proposal by the European Commission basically provides for substantially less strict criteria to be met by an EETS provider as to date no service provider has been able or willing to meet these requirements. Moreover, the proposal, for the first time, also provides for the mandatory exchange of personal data and vehicle registration data between national authorities for the purpose of cross-border prosecution in cases of toll evasion.

In principle, the Federal Chamber of Labour (BAK) supports efforts to achieve increased interoperability of toll payment on European motorways. Being professional drivers, many of our members have to carry with them a multitude of on-board units, the existence of which simply cannot be justified for "technical reasons". Unfortunately, the proposal fails to include any precise starting points for the elimination of this grievance. According to our judgement, the mandatory exchange of personal data and vehicle registration data between national authorities in cases of toll evasion is also insufficient as an EU-wide uniform tool for the enforcement of toll-related offenses is still not being developed.

### European Electronic Toll Service (EETS)

The Commission's realignment of the EETS is the consequence of the failure of the model designed in the previous Directive 2004/52/EC. This shows that, in contrast to mobile communications, there is simply no need for service providers to enable users to pay road toll for all toll roads in all 28 Member States with a single on-board unit. This is not in demand for heavy-duty vehicles exceeding 3.5 tonnes, let alone for cars of less than 3.5 tonnes. These excessive requirements have resulted in the development of individual solutions for all national toll collection systems established since 2004, which force road users – primarily if they use lorries for cross-border transport within the single market – to install several on-board units.

BAK observes this trend with regret because it causes unnecessary problems, in particular for professional drivers (e.g. different mode of operation and functioning of OBUs, obstructed vision in the driver's cab) and because it is a daily reminder for all parties of the EU's lack of ability to solve problems in their direct working area.

The new definition of an EETS provider as proposed by the Commission by deleting Article 3 of Directive 2004/52/EC fails, however, to include any degree of geographical coverage. Therefore, the proposal no longer shows any ambition when it comes to EETS. In this context, however, reference has to be made to the "regional EETS projects" (= a single on-board unit with a single contract for at least four national toll collection sys-

tems) which have already been established in practice and are tolerated by the Commission. From our point of view, the quality requirements under a new Directive should therefore at least not fall short of the level met by service providers already active in the market.

Irrespective of the developments regarding EETS, the European Commission has to tackle the issue of technical interoperability of the on-board units (= a single on-board unit that can be used to perform several tolling contracts with different national toll operators) as soon as possible. The Commission should not spend another 13 years (in words: thirteen years) relying on "market-based developments". Experience gained in Austria, just to give one example, has shown that it is still possible, without any problem, to use on-board units of other national toll collection systems (Germany, Switzerland) in addition to the "official" OBU of the national toll charger. In contrast, other national toll collectors simply do not show any preparedness to cooperate, even though the units concerned are on-board units made by the same manufacturer and using the same operating technology. We suggest that the EC comes up with a mandatory right of inspection and/or consent regarding the technical interoperability of on-board units. BAK points out the Eurovignette Directive (COM (2017) 275), which is being revised, and in particular to the provisions on the introduction of new toll collection systems (cf, in this context, Article 7a(4)–(6) of Directive 1999/62/EC). The Interoperability Directive should provide for a similar regulation on the imposition of conditions for existing national toll collection systems.

### **Protection of employee data**

From an employee's point of view, it has to be mentioned that tolling technology (primarily toll invoicing systems indicating the exact time the toll is paid) allows for alarming surveillance of professional drivers by their employers. Therefore, Article 3(6) of the proposal should not only take into consideration Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, but also point out the possibility provided for in Article 88 of said Regulation according to which collective agreements or national legislation may provide for rules on the processing of personal data in the employment context (primarily monitoring at the workplace).

### **Cross-border exchange of information on the failure to pay road fees**

BAK supports the establishment of an ordinary administrative procedure regarding the cross-border exchange of information between the Member States on the failure to pay road fees in a cross-border context. However, the changes proposed by the Commission are insufficient. In our view, the official regulation of the enforcement of administrative penalties is required as well. Should the proposal remain limited to the exchange of information, collection agencies will continue to fill the "enforcement gap", partly using questionable methods and causing extra costs for citizens and businesses. For this reason, BAK calls upon the EU legislator to create a uniform set of tools to guarantee an ordinary administrative procedure in cases of failure to pay road fees, including in a cross-border context.

Should you have any further questions  
please do not hesitate to contact

**Franz Greil**

T: +43 (0) 1 501 651 2262  
franz.greil@akwien.at

**and**

**Peter Hilpold**

(in our Brussels Office)  
T +32 (0) 2 230 62 54  
peter.hilpold@akeuropa.eu

**Bundesarbeitskammer Österreich**

Prinz-Eugen-Straße 20-22  
1040 Vienna, Austria  
T +43 (0) 1 501 65-0

**AK EUROPA**

Permanent Representation of Austria to the EU  
Avenue de Cortenbergh 30  
1040 Brussels, Belgium  
T +32 (0) 2 230 62 54  
F +32 (0) 2 230 29 73