

Ref: Petition No.0533/2018
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PETI Secretariat
Petitions Committee

This is in response to the commissioner's letter of the 24th June. The reply presents fresh information and clarifications to the comments specified by key phrases.

Introduction

EEA- The state of noise in Europe

Road traffic noise, both inside and outside urban areas, is still the dominant source affecting human exposure above 55 dB L_{den}. Around 100 million people are exposed to road traffic noise above 55 dB L_{den} in the EEA member countries. Of these, 32 million are exposed to very high noise levels above 65 dB L_{den}.

Road traffic in Malta is the main source of noise pollution. The registered vehicles are increasing by 45 per day, the traffic noise is >65 dB (A)^{16hrs}. This situation is adversely affecting the health of 92% of the population.

Road traffic & related statistics:

- **Vehicles per 1000 inhabitant 782 : 2018 [NSO]1**
- **Urban Peak traffic > 23,000 vehicle [TA]2**
- **Daily vehicles journeys 182,000 [TA]3**
- **Average Urban population density 5200 inhabitants/Km2 [UOM]4**
- **92% of the population lives in urban area5 [World Bank Urban population]**
- **The noise level in the urbanised area exceeds 55dB(A) [EEA Quite areas] 6**
- **licensed vehicles increased at a net average rate of 45 vehicles per day [NSO] 7**

The proper application of EU Regulation 540/2014 will contribute to reduce traffic noise, this is crucial to protect the citizen's health and the environment; underscore by the Regulation, as introduced in recital (1) & (3).

1)The technical requirements for the EU type-approval of motor vehicles and their silencing systems with regard to permissible sound levels should be harmonised to avoid the adoption of requirements that differ from one Member State to another, and to ensure the proper functioning of the internal market while, at the same time, providing for a high level of environmental protection and public safety, a better quality of life and health, and taking account of road vehicles as a significant source of noise in the transport sector..

3) Traffic noise harms health in numerous ways. Protracted noise-related stress can exhaust human physical reserves, disrupt the regulatory capacity of organ functions and hence limit their effectiveness. Traffic noise is a potential risk factor for the development of medical conditions and incidents such as high blood pressure and heart attacks.

¹ NSO Demographic survey 2018

² TA Transport Master Plan 2025

³ TA Transport Master Plan 2025

⁴ UOM ABE60: P13-6205

⁵ NSO

⁶ EEA Quiet Areas QSI

⁷ NSO Motor Vehicles: Q1/2018

Clarification to the comments specified by key phrases.

1. Reduction of the Exhaust noise level [2016-2026]
 2. Article 11
 3. *Application of the Union Regulations*
 4. Noise limits; have been transposed in the national legislation of Malta.
 5. Measurement of noise emitted by stationary vehicles
 6. VRT 'Member States are free to introduce further checks if deemed appropriate.'
- 1) The vehicle exhaust noise level limits for categories M and N are phased in three stages: 2016, 2022 & 2026. The vehicle noise level will be reduced by 2 dB (A) per stage. Nevertheless, Vehicles in service before 2016 must conform to the noise levels laid down in Directive 70/157⁸
 - 2) Article 11, concerns the review, in 2021, of the acoustic vehicle alerting system (AVAS) and has nothing to do with the vehicle exhaust noise level limits, which are set in Annex III of Reg. 540/2014
 - 3) It is a given that EU Regulations are directly applicable at national level; as a matter of fact this is underlined in the petition's first paragraph.
 - 4) We are absolutely sure that the, 'Vehicles exhaust noise level for M & N1 Categories, as laid out in Annex III of Regulation 540/2014, are neither 'applied nor transposed', in the Maltese legislation.
 - a. Therefore, if the Commission have documented evidence to prove otherwise, we would appreciate the opportunity to share.
 - 5) The testing of the in- service vehicle noise level when 'Stationary' is laid down in Annex II and Annex IX of Regulation 540/2014. Specifically for testing the motor vehicle noise level or the replaced silencing systems.
 - 6) S.L. 65.15-VRT; The additional requirements introduced in this Regulations; does not contribute to the reduction of the motorised vehicles noise level, on the contrary, the sanctioned noise threshold **increases** the levels by more than 30dB (A). [Appendix 2]

The Union Law lays down the *correct application of EU Regulations as follows*:

- a. A Member State has no power to apply a Regulation incompletely or to select only those provisions of which it approves as a means of ensuring that an instrument which it opposed at the time of its adoption or which runs counter to its perceived national interest is not given effect.
- b. Nor can it set up provisions or practices of domestic law to preclude the mandatory application of a Regulation.

We reason that the manner by which the Malta government applied Regulations: 540/2014 and 168/2013 is incorrectly:

1. *By the Selection of the provisions which the authorities approved and inversely those discarded.*
 - a. *The Articles discarded are pivotal to achieve the regulations objective; as explained in detail in Appendix I.*
2. *By the approval of legislation that has provisions which preclude the mandatory application of the regulations and runs counter to its perceived national interest.*
 - a. *The vehicles exhaust noise level enforced by the S.L.65.15 'VRT Regulations', exceeds the EU Regulations 'noise limit values' by > 30 dB (A); as explained in detail in Appendix II.*

⁸ Reg. 540/2014 – Article 4 & 14

Conclusion

Quotes

EEA, "Noise pollution remains a major environmental health problem in Europe, with the transport sector being a major cause."

WHO, "Noise from road traffic alone is the second most harmful environmental stressor in Europe."

Article 8 ECHR: "Noise, emissions or smells, can amount to an interference with the right to respect for someone's private life and home"⁹

Government's position - Noise pollution

The Government does not have a position regarding, "The Safe Noise Level for the Community; including traffic noise" Nor any tangible concern about the Environmental Noise.

In fact, "The measurement of noise and the assessment of its effects on the community, as yet, are not included in the noise or health legislation."¹⁰

Public consultation - Tackle noise pollution

The only consultation on measures to tackle noise [White Paper for the prevention, abatement and control of neighbourhood noise] was in February 2012.

Government policy - Reduction of traffic noise!

Its policy for traffic noise reduction is inversely to that of the Commission, as evident by its failure to implement the technical measures intended to reduce traffic noise and guarantee the quality and safety of the vehicles which are in-service.¹¹

The authorities, by omission and commission are responsible for the constantly increase of traffic noise. Eighty percent of the vehicles rolling stock is over three years old; hence the exhaust *noise levels of these vehicles are tested, annually depending on the vehicle's registration.*

During the 'Noise Test' the acceptable noise level, *enforced by the VRT, exceeds the EU limits by >30dB (A).*¹² This malpractice, apart from violating EU Law, detracts from the efficiency of the silencing systems of the in-service vehicles; which are in excess of 300,000. On average 100,000 of these vehicles are tested annually for noise emissions.

Without doubt, this malpractice, increases the risk to the population's health, from excessive noise emissions.

Hence, the proper application of the regulations is an essential step for the reduction of road traffic noise and to ensure the quality and safety of the in-service vehicles. Of equal importance is the enactment of noise emissions standards and methods to define and measure 'community noise.'¹³

⁹ European Court Article 8 unacceptable traffic noise pollution

¹⁰ WHO Community noise

¹¹ Appendix I

¹² Appendix II

¹³ S.L.549.37 Definition (4)

Appendix I

Maltese Legislation

A. Motor vehicle noise Level Legislation

1. L.N. 62 of 2016: - EC Type Approval of Motor Vehicles and their Trailers (Amendment) Regulations, 2016

(2) These regulations implement the requirements of:

(a) Commission Regulation (EU) No 540/2014 of 16 April 2014 on the sound level of motor vehicles and of replacement silencing systems amending, for the purposes of limiting or reducing traffic noise, Directive 2007/46/EC of the European Parliament and of the Council and repealing Directive 70/157/EEC

- Although the inference is that Reg. 540/2014 was implemented in the above regulation the fact is that the listed provision were not included:

Article 4 **General obligations of Member States –**

4. Member States shall permit, on grounds relating to the permissible sound level, the sale and entry into service of a replacement silencing system, or components thereof, as a separate technical unit, if it conforms to a type in respect of which a EU type-approval has been granted in accordance with this Regulation.

Article 5 **General obligations of manufacturers exhaust system, local manufacturer**

Article 14 **Repeal**

1. Without prejudice to the second subparagraph of Article 4(2) and the second subparagraph of Article 4(4), Directive 70/157/EEC is repealed with effect from 1 July 2027.

ANNEX II

METHODS AND INSTRUMENTS FOR MEASURING THE NOISE MADE BY MOTOR VEHICLES

4.2. Measurement of noise emitted by stationary vehicles p27

ANNEX III

LIMIT VALUES

ANNEX VII

MEASURING METHOD TO EVALUATE COMPLIANCE WITH THE ADDITIONAL SOUND EMISSION PROVISIONS additional sound emission provisions (ASEP) -Variable geometry

ANNEX IX

EU TYPE-APPROVAL IN RESPECT OF THE SOUND LEVEL OF SILENCING SYSTEMS AS SEPARATE TECHNICAL UNITS (REPLACEMENT SILENCING SYSTEMS)

Stationery measurement

A. Maltese Legislation

Provisions in the Maltese Legislation which run counter to the mandatory application of the Noise Level Limits laid down in Annex III of Regulation 540/2014

S.L. 65.15 VRT

Motorised vehicle exhaust noise level testing
First Schedule (Regulation 2, 18D and 18E)

Prescribed Requirements

A. the requirements established by the Driver and Vehicle Standards Agency of the United Kingdom as contained in the following manuals and their subsequent updates and amendments (this item shall apply until 19 May 2018):

- (a) The Motor Bicycle and Sidecar Testing Manual (latest edition);
- (b) The Private Passenger and Light Commercial Testing Manual (latest edition);
- (c) The Heavy Goods Vehicle Inspection Manual (latest edition);
- (d) The Public Service Vehicle Inspection Manual (latest edition).

C. Exhaust Noise level testing

Category VII Vehicles –

- a) shall be tested to an exhaust sound level rating not exceeding **119 dB (A)** when the engine revolutions are at three-fourths of the maximum rated speed.

Category I, Category II, Category IV, Category V, Category VI and Category VIII vehicles - shall be tested to a sound level as listed below for various engines when revolutions are at three-fourths of the maximum rated speed:

- b) all petrol engines at **100 dBA**;
- c) all diesel engines less than 150KW (200bhp) at **101 dBA**;
- d) all diesel engines equal to or in excess of 150KW (200bhp) at **105 dBA**.

B. Limit Values of Motorised vehicle [Regulation 540/2014]

B1)EU Reg. 540/2014 - Annex III:

LIMIT VALUES

Vehicles Category M1 & M2: **72-75** dB (A)

Vehicles Category M3: **76- 80** dB (A)

C. Limit Values of Motorcycles [Regulation 168/2013]

C1) EU Reg. 168/2013 - Annex VI

LIMIT VALUES

Two- wheel Motorcycle: **63-80** dB (A)

Tricycle & Quads: **80** dB (A)