

4.3.1. Eurovignette system

The Eurovignette system was introduced by Directive 93/89/EEC¹²². Since this Directive was annulled by the European Court of Justice because the European Parliament had not been consulted properly before adoption of the Directive¹²³, it was subsequently replaced by the very similar Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures¹²⁴.

According to Article 2 of the Directive in force, there is a basic distinction between *tolls*, which are charges for the use of a certain piece of infrastructure, and *user charges*, which confer the right to use the whole network for a given period. This user charge is symbolised by the so called Eurovignette. Both, tolls and user charges, may only be levied on the use of motorways or other similar multi-lane roads, bridges, tunnels and mountain passes¹²⁵. Though, a generalised user charge referring to the whole road network of a Member State does not fall within the field of application of the Directive in question¹²⁶.

In the Eurovignette system, fixed charges are imposed on the use of motorways which apply only to vehicles with a total weight of 12 tonnes or more. The annual charge is differentiated according to the damage the vehicle causes to the environment and to the roads, criteria being the number of axles and the emissions.

Article 7(7) of the Directive harmonises the amount of the user charge by setting maximum rates ranging from EUR 750 per year for the most environmentally friendly vehicles with a maximum of three axles, up to EUR 1550 per year for the most polluting category of vehicles with four axles or more.

As the charge is paid on an annual basis, the distances driven are not taken into account, which contradicts a pricing system based on the polluter-pays principle as well as on

¹²² Council Directive 93/89/EEC, of 25 October 1993, on the application by Member States of taxes on certain vehicles used for the carriage of goods by road and tolls and charges for the use of certain infrastructures, OJ L 279, 12 November 1993, p.32.

¹²³ Judgment of 5 July 1995, in case C-21/94, *European Parliament v. Council*, [1995] ECR I-1827.

¹²⁴ Council and European Parliament Directive 1999/62/EC, of 17 June 1999, on the charging of heavy goods vehicles for the use of certain infrastructures, OJ L 187, 20 July 1999, p.42.

¹²⁵ Article 7(2) of Directive 1999/62/EC.

¹²⁶ See *supra*, note 115, p.105.