



## *Yesterday's Vehicles on Tomorrow's Roads*

**Directive 2014/45/EU of the European Parliament and of the Council of 3 April 2014 on periodic roadworthiness tests for motor vehicles and their trailers and repealing Directive 2009/40/EC ( 1 ) .**

### **The Historic Vehicle Viewpoint on Application of the Directive by Member States**

#### **1 National Application of the Directive**

The Directive is an instruction to Member State governments. It does not directly place obligations on individual vehicle owners. The Directive does not write the national laws. So from now on, following its adoption, the responsibility for implementation passes to each of the individual EU Member State Governments.

It follows that in each Member State, it will primarily be the responsibility of the relevant ANF to engage with its own National Government.

The underlying assumption of this paper is that each ANF will wish to achieve a solution in its own Member State which is most suitable to its members. It is assumed that FIVA will wish to support this approach.

It will be good if all Member State Governments adopt similar and favourable policies on historic vehicles. But if one ANF is particularly successful in getting a sympathetic ear from its own National Government on any aspect, it can pursue that solution, regardless of a less favourable FIVA position on that aspect.

It is also assumed that the aim for each ANF will be, on behalf of its members, to persuade its Government

- to recognise historic vehicles as a class, ideally based upon the Directive's 30 year definition,
- to take the best possible approach to exemption; this need not mean that historic vehicles need never be tested but it certainly requires them to be protected from a test regime modelled with modern electronically rich vehicles in mind,
- to adopt the most sympathetic and least bureaucratic approach possible consistent with authenticity to questions of compliance with the definition of vehicle of historic interest



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- to strive for a testing regime which is as much as possible based on the technical requirements that were in place on the date of first registration or production of the vehicle
- to have regard to the position of historic vehicles in its development of testing capacity, and acquisition of suitable expertise and test equipment for testing”
- to work to permit a testing regime which, though compliant with the Directive, will not cause roadworthy cherished older vehicles, which nevertheless do not meet their interpretation of the definition of vehicle of historic interest, to be removed from the roads.

#### The paper

- commences with a review of the matters in the Directive which appear relevant to historic vehicles
- proposes an FIVA position (shown in *italics*) in each case and
- concludes with a set of recommended questions for ANFs to use as an *aide memoire* in discussing the implementation of the Directive with their respective National Governments.



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## **2 Review of the Main Relevant Points in the Directive**

### **Recitals General**

The Recitals are not part of the substantive requirements but do provide interpretative aids. This is important in a Directive, where Governments of Member States are free to decide how to incorporate the substantive Articles into their laws.

The following references to Recitals note only where their content is not fully dealt with in one or more Articles.

### **Recitals 1 and 2**

The Directive is aimed primarily at road safety of the entire vehicle parc (target zero fatalities by 2050, 50% reduction 2010 -2020).

*FIVA supports that aim, though it notes that two and three wheeled vehicles are currently excluded from its remit until 2022 and that most tractors, having a maximum speed of less than 40km, are impliedly excluded by Recital 12. .*

### **Recital 3**

Periodic testing is to be the main tool for increasing roadworthiness and environmental aspects of vehicle emissions are to be included.

*FIVA recognises this approach.*

### **Recital 4**

While under Article 1 the Directive tells Member State Governments the minimum they must put into their National Laws, Member State Governments are permitted to introduce additional, more frequent and more stringent tests if they wish.

*FIVA recognises this is a matter for individual ANFs, supported if they wish by FIVA.*



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### **Recital 8**

This disapproves “Tampering and adverse manipulation of vehicle parts” which could affect road safety or the environment.

*FIVA supports the positive approach to road safety, but FIVA recognises the approach to modification of vehicles to be a matter for individual ANFs, supported if they wish by FIVA and wishes to emphasise that replacement of a part by another contemporary part should not be deemed to be tampering. .*

### **Recital 13**

Member State Governments are free to determine whether they will test the historic vehicles in their own territory and the periodicity of testing of historic vehicles.

*Member State decisions on any testing of and the periodicity of such testing if applied are matters for individual ANFs, supported if they wish by FIVA.*

### **Recital 17**

This recital sets out the importance of manufacturers supplying data but it is of note that the Directive does not contain any requirements for supply of that data and confines itself to setting up the Commission programme set out in Article 20 (qv).

*FIVA wishes it to be understood that this approach may be constrained, especially as regards older vehicles, where the data may not still be available at all or in an electronically usable form and assumes the Commission will have regard to that issue in its deliberations.*

*FIVA also wishes it to be clear that absence of data in respect of older vehicles ought not to be used by a Member State to limit or prevent older vehicles, which that Member State decides do not qualify for the status of a vehicle of historical interest as defined in Article 3, but which have been properly presented for testing, from being tested.*

### **Recital 18**

The holder of the registration certificate and the vehicle operator remain liable for a vehicle being roadworthy.

*FIVA agrees.*



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### **Recital 21**

Testing is to be “relatively quick, simple and inexpensive”.

*FIVA supports this objective, the national application of which will be a matter for individual ANFs supported if they wish by FIVA.*

### **Recital 22**

This recital requires all items “relevant to the design construction and equipment” of the vehicle to be tested. It makes specific reference to the compatibility of components, such as wheels and hubs.

*FIVA does not disagree with this approach, provided the principles of “in-period changes” and changes not having an adverse effect on roadworthiness are recognised.*

## **Article 1**

These are the “minimum requirements”.

*FIVA favours the adoption by Member States of a reasonable approach to the provisions regarding vehicles of historic interest. National application of these requirements is a matter for individual ANFs supported if they wish by FIVA.*

Two and three wheeled vehicles over 125cc capacity are not to be included until 2022.

*FIVA notes and supports this position.*

## **Article 2**

**Paragraph 2** permits, but does not require, Member States to make exclusions for certain classes of vehicles, including vehicles of historic interest because they are “never or hardly ever used on public roads”. This restates the terms of Recital 13 and could possibly be of concern in some jurisdictions. Member States could deem this to be an encouragement to put mileage limits on the use of historic vehicles.

*FIVA assumes the words concerning use on public roads to be descriptive and not normative. FIVA thus favours the adoption by Member States of the exemption of all vehicles meeting the definition of vehicle of historic interest and will support any ANF*



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*whose National Government is minded not to do so. National interpretations of “hardly used on public roads” and the extent of exclusions which Member States choose to make are matters for individual ANFs supported if they wish by FIVA. FIVA would request ANFs not to raise the issue of use on public roads except in response to an approach from their National Government.*

**Paragraph 3** Member States may define national requirements for vehicles outside the requirements of the Directive, which includes vehicles of historic interest.

*FIVA considers that the extent and frequency of any such national requirements in respect of vehicles of historic interest should be aimed solely at ensuring that these vehicles when on public roads are safe within those limits which necessarily reflect the time at which they were constructed. Precise definition and application of these requirements by Member States is a matter for individual ANFs supported if they wish by FIVA*

### **Article 3**

**Paragraph 7** is the definition of historic vehicle. Its primary requirement is that the vehicle be “considered to be historical by a Member State”. There are currently differing definitions of what Member States consider historic.

Of the subsidiary parts of the definition

- Manufactured or first registered over 30 years ago
- Specific type no longer in production
- Historically preserved and maintained in its original state and has not undergone substantial changes in the technical characteristics of its main Components

it is the third which is of particular interest. If applied strictly by any Member State it could result in a significant number of exclusions from the Category, which would lead to different regimes for vehicles of a same type, dependent on the modifications

*FIVA favours the adoption by Member States of a reasonable application of the exclusions in the definition of vehicles of historic interest. The precise interpretation of the definition by a Member States is a matter for the individual ANF, supported if they wish by FIVA*



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### **Article 4**

It is the fundamental responsibility of each Member State government to test vehicles registered in its territory.

*FIVA respects this position.*

**Paragraph 3** The Commission responsible for adopting a common set of technical information within 4 years.

*FIVA stands ready to assist the Commission in this regard if requested.*

### **Paragraph 4**

Member States must define legal obligations regarding keeping of a vehicle in a safe and roadworthy condition

*FIVA respects this position.*

### **Article 5**

**Paragraph 1** Testing for cars, light vans and fast tractors used for haulage, which are not otherwise exempted, is to be at most after four years then at two year intervals

Testing for taxis ambulances large goods vehicles (with a maximum mass over 3.5 tonnes), and buses, which are not otherwise exempted is to be at most after one year and thereafter annually.

*FIVA recognizes these apply to vehicles not exempted by national Governments.*

Testing intervals for two and three wheeled vehicles are not defined.

*FIVA notes this position and recognises that requirements will fall to be defined from 2022.*

**Paragraph 3** Member States may set shorter limits.



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*Limits set by Member States will be a matter for an individual ANF supported if it wishes by FIVA.*

**Paragraph 4** permits Member States to require testing if

the vehicle has suffered an accident,

the vehicle has been altered,

the owner has changed,

the vehicle has exceeded 160,000 km,

for serious road safety reasons.

*The extent of adoption by a Member State of these rights will be a matter for the individual ANF supported if it wishes by FIVA.*

### **Article 6**

**Paragraph 1** The areas tested, except for two and three wheeled vehicles, must be at least those in Annex I Point 2.

*The extent of tests applied by a Member State to cherished old vehicles which are not exempt as vehicles of historic interest will be a matter for individual ANFs supported if they wish by FIVA*

**Paragraph 2** The items tested must be in accordance with Annex I Point 3. The tests may (not "must") include verification against standards in force at the time of approval or retrofitting. There is no mention of vehicles which predate approval regimes.

*FIVA is of the opinion that all Member States should interpret the provision to enable recognition of the position not only of earlier approval but also where no contemporary legislation on standards existed. It is important that all testing should reflect the standards in force at the time manufacture or later modification (if any) actually occurred.*



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### Article 8

**Paragraph 1** requires that the testing stations of Member States must issue Certificates which comply with the standard code set out in Annex II and make the certificate available to the person presenting the vehicle for testing.

Under **Paragraph 3** each member state has to present its intended certificate to the Commission by 20 May 2018

**Paragraph 8** Certificates issued by one member state are to be recognised by all member states when re-registering vehicles previously registered in the member state which issued the certificate although the new Member State may check if the certificate is valid.

There is no requirement for two and three wheeled vehicles.

*FIVA note these provisions but assumes they do not apply to vehicles of historic interest even where a Member State chooses to introduce or maintain a regime of testing for such vehicles.*

**Paragraph 4** Unless a certificate is of doubtful validity or where a member state has exercised its right to test on change of ownership, member states must recognise certificates issued by other member states.

*FIVA will wish to ensure that all Member States will also accept any exemption status granted by each other Member State and will not require a certificate when, under the Directive, none is required. Individual ANFs are asked to press their national Governments to agree this position.*

**Paragraph 6** Certificates are to include odometer readings to enable checking on tampering. Member States shall make tampering unlawful with adequate penalties.

*FIVA recognises that odometer replacement, refurbishment or repair may be for correct technical reasons without any fraudulent intent and encourages all Member States in implementing this requirement to take account of this fact. FIVA will if requested support individual ANFs in this position*



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### **Article 12**

Member States are responsible for the standards of test centres.

*FIVA assumes all Member States will have proper regard, in setting these standards, for cherished old vehicles which are nevertheless not deemed by that Member State to meet the historic vehicle criterion*

### **Article 16**

This Article mandates the Commission to study an electronic vehicle information platform for both roadworthiness testing and accident data. This provision does not include any implementation requirement. The Commission is also mandated to consider, but not given the right to mandate, the inclusion of small trailers (below 3.5 tonnes max weight).

*In the view of FIVA this approach may be constrained, especially as regards older vehicles, where data may not still be available in an electronically usable form and assumes the Commission will have regard to that issue in its deliberations.*

### **Articles 17 and 18**

These Articles delegate powers to the Commission to adapt and update standards within the overall limits described in the Directive for five years from 19<sup>th</sup> May 2014 unless revoked by the Parliament . Delegated amendments shall come into force unless objected to by the Parliament or the Council

*FIVA will monitor any effect these updates may have on cherished old vehicles which are nevertheless not deemed by a Member State to meet the historic vehicle criterion*

### **Articles 22 and 23**

The effect of these Articles is that the latest date for passing of national legislation to incorporate the Directive and for its implementation by Member States is 20 May 2018.

*FIVA encourages all individual ANFs to engage actively with their national Government to assist in the achievement of a compliant national testing regime and structure including full mutual recognition which is amenable to its historic and other cherished old vehicles by the due date.*



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### Annex I

#### Paragraph 1

The paragraph is drafted to allow for earlier standards.

*FIVA notes that the drafting refers to approvals in force in the relevant legislation at the time of first registration. In the case of a vehicle which is old but which the Member State does not consider complies with the vehicle of historic interest definition there will usually be no "relevant approval legislation". Each Member State will have to deal with this lacuna if there are any such vehicles registered within the Member State.*

#### **TABLE: "CONTENTS AND METHODS OF TESTING OF DEFICIENCIES IN VEHICLES.**

**Paragraph 1.2.2** sets absolute braking standards.

*FIVA notes that Paragraph 1.2.2 may be of concern. A cherished old vehicle which does not meet the "historic vehicle" definition may not meet the braking requirements defined. How is this to be dealt with? It is not subject to Note 1 (qv)  
FIVA is unclear how this can be reconciled with the principle of Article 6 that testing should be on the base of standards in force at the time of approval or retrofitting.*

#### **NOTE 1**

This Note defines requirements by reference to approvals "as well as ....by national legislation in the country of registration".

*To protect cherished old vehicles which are nevertheless outside the "vehicles of historic interest" definition, individual ANFs should work with their National Governments to establish whether there is relevant national legislation to be relied upon or, failing that, what standards are to be applied. .*

### Annex III

Defines the equipment required and calibration requirement therefor.

*FIVA notes that equipment may need to be adapted to meet the needs of cherished old vehicles which nevertheless do not meet the historic vehicle criterion.*



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**Directive 2014/45/EU is associated with the following enactments.**

### **Directive 2014/46/EU amends Directive 1999/37/EC concerning the registration documents for vehicles**

This permits Member States to suspend the right of a vehicle to use public roads without ceasing registration, to deal with dangerous deficiencies established in a Roadworthiness Test. No detailed guidance on the extent or exercise of this right is offered to Member States.

*FIVA notes this legislation.*

### **Directive 2014/47/EU Roadside Testing Of Commercial Vehicles**

This Directive covers roadside testing of commercial vehicles over 3.5 tonnes maximum mass.

*FIVA notes that Directive **2014/47/EU** does not include an exemption for vehicles of historic interest. The definition in this Directive of “commercial vehicle” is a vehicle “used primarily for the transport of goods or passengers for commercial purposes”.*

*FIVA wishes to be assured that this definition means that a “vehicle of historic interest” as defined in Directive 2014/45/EU, which, though designed for the purpose of the carriage of goods or passengers, is no longer primarily used for such purposes, would not be subject to roadside inspections. Furthermore Article 9 of Directive 2014/47/EU requires a commercial vehicle to carry documentation some of which a vehicle of historic interest would not be required under Directive 2014/45/EU to possess. ANFs may consider it prudent to confirm with their National Government that they agree with this interpretation and, if necessary, to seek the support of FIVA in arguing that this interpretation is correct.*



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### **Questions which each ANF should consider in examining the application of the Directive to its own Member State**

Before answering the following questions ANF's should precisely map the current Roadworthiness Testing regime applicable in their country (for all categories of vehicles), in general and more specifically with regard to historic vehicles.

The central question for each ANF is whether its National Government intends to change the current regime, on the base of the new Directive, and if yes, what changes are projected and what consequences this could have for historic vehicles. Of course nothing should inhibit an ANF for seeking changes in its current regime if application of the Directive could be used to improve the position of historic vehicles in their country.

1	a	Will the Member State make use of any non-Governmental body or bodies to establish its implementation of the Directive?
1	b	If the answer to 1a is yes, how does one interface with that body or bodies?
1	c	Will the Member State consult with stakeholders prior to putting in place its proposed methods of implementation of the Directive?
1	d	If the answer to 1c is yes, how does one become a recognized stakeholder?
2	a	Does the Member State have an existing classification of a "historic vehicle"?
2	b	Does that classification by the Member State correspond as to age with the 30 years in the Directive?
2	c	If not, does the Member State intend to bring the age limit into line with the Directive?
3	a	Does the Member State propose to interpret the out-of-production provision by strict reference to model type and number?
3	b	If the answer to question 3a is no, how does the Member State intend to apply this exemption?
4	a	Does any existing classification by the Member State of historic vehicles set technical/authenticity standards?
4	b	If the answer to question 4a is yes, do the standards of historic vehicle definition of the Member State align with the Directive?
4	c	Are the current standards of historic vehicle definition of the Member State more demanding than those of the Directive?
4	d	If the Member State has no current standards of historic vehicle definition or the current standards of historic vehicle definition are less demanding than the Directive by what process is it proposed to bring them into line?



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4	e	Does the Member State intend to consult with stakeholders in establishing a methodology for inclusion/exclusion of vehicles from the status of "vehicle of historic interest"?
4	f	If the answer to 4e above is yes does the Member State intend to consult on a general or individual basis?
4	j	If the answer to question 4f is "individual", how does one become a stakeholder?
5	a	Will the new standards of historic vehicle definition of the Member State be established prioritising safety?
5	b	Will the new standards of historic vehicle definition of the Member State be established prioritising authenticity?
5	c	Will the process of the Member State to set standards of historic vehicle definition distinguish between recent and early replacements of elements of the vehicle?
5	d	Will the process of the Member State to set standards of historic vehicle definition distinguish between similar and dissimilar replacements of elements of the vehicle?
5	e	Will the process of the Member State to set standards of historic vehicle definition recognise replacement of major components for reasons of necessity?
5	f	If the answer to question 5e is yes how is this to be achieved?
6	a	Does the current classification, if any, of a historic vehicle in the Member State include all types of vehicles including those designed for carrying goods and passengers?
6	b	If the answer to 6a is yes, does the use to which the vehicles are put affect the classification?
7	a	Does the Member State intend to ensure cherished old vehicles falling outside the classification may nevertheless be tested rather than banned from the roads?
7	b	Does the Member State intend rigorously to apply Annex I Paragraph 1 requiring testing to be to standards in force at the time of manufacture to the design of testing procedures, facilities and equipment?
7	c	Does the Member State intend rigorously to apply Annex I Paragraph 1 requiring testing to be to standards in force at the time of manufacture to inspector skills and training?
8	a	Does the Member State intend to consult with stakeholders prior to the proposed methods of implementation of a test regime for vehicles of historic interest?
8	b	If the answer to question 8a is yes, how does one become a recognised stakeholder?