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# FREQUENTLY ASKED QUESTIONS

## Revised Clean Vehicles Directive

This document contains a list of frequently asked questions regarding Directive (EU) 2019/1161 of the European Parliament and of the Council of 20 June 2019 amending Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles, commonly known as the Clean Vehicles Directive. The answers reflect UITP Europe's interpretation of the text published in the Official Journal of the EU on 12 July 2019. The full text of the Directive is available here: <https://eur-lex.europa.eu>.

The revised Clean Vehicles Directive requires Member States to ensure that minimum percentages of "clean" and "zero-emission" vehicles will be procured within two reference periods: the first phase from 2021-2025 and the second one from 2026-2030.

### SCOPE OF THE DIRECTIVE

#### ➤ Which types of contracts does the Directive apply to?

The Directive applies to procurement through:

- Contracts for the purchase, lease, rent or hire-purchase of road transport vehicles awarded by contracting authorities or contracting entities in so far as they are under an obligation to apply the procurement procedures of Directives 2014/24/EU<sup>1</sup> and 2014/25/EU<sup>2</sup>;
- Public service contracts within the meaning of Regulation 1370/2007<sup>3</sup> for the provision of passenger road transport services that exceed a threshold to be defined by Member States;
- Other service contracts such as non-scheduled passenger transport, refuse collection services or mail delivery services in so far as they are under an obligation to apply the procurement procedures of Directives 2014/24/EU and 2014/25/EU [→ Art. 3(1); Annex, table 1].

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<sup>1</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC

<sup>2</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC

<sup>3</sup> Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70

➤ **Will the Directive be applied retrospectively to existing procurement contracts?**

The Directive only concerns contracts for which the call for competition has been sent after 2 August 2021 or, when no call for competition is foreseen, where the contracting authority or contracting entity has commenced the procurement procedure after 2 August 2021. Existing contracts are therefore not retrospectively affected by the Directive [→ Art. 3(1)].

➤ **Which exemptions apply?**

Concerning buses, the Directive does not apply to vehicles of category M3 other than Class I and Class A. This means that coaches, i.e. vehicles of category M3 with very limited or no area for standing passengers, are not included in the scope of the Directive [→ Art. 3(2)(b)]. Member States can exempt the public procurement of certain vehicles from the requirements of the Directive such as e.g. ambulances, hearses or vehicles used on construction sites [→ Art. 2]. As for special exceptions, during the first reference period, lower minimum procurement targets for zero emission vehicles (25% instead of 50% of the target) apply in Member States where double-decker buses represent a significant share of public procurement (>80%) [→ Annex, table 4].

➤ **Does the Directive apply to other vehicles besides buses in public transport companies?**

The Directive applies to other types of vehicles in so far as the contract for their procurement falls under one of the three categories listed in the answer to the first question of this document. Generally, the Directive applies to road transport vehicles, i.e. vehicles of category M or N [→ Art. 4(3)]. It does not apply to vehicles designed and constructed specifically to perform work, which are not suitable for carrying passengers or for transporting goods, and which are not machinery mounted on a motor vehicle chassis [→ Art. 3(2)(a)].

➤ **Does the Directive apply to very small procurements (e.g. just one vehicle)?**

Overall, the Directive only applies to contracts above the EU thresholds<sup>4</sup>. For public service contracts awarded according to the procedures provided for under the public procurement Directives 2014/24/EU and 2014/25/EU, the respective thresholds of EUR 221 000 and EUR 443 000 laid down in the Directives apply [→ Art. 3(1)(a)]. For public service contracts awarded according to the rules laid down in Regulation 1370/2007 (public service concession contracts), the Clean Vehicles Directive only applies above a threshold that remains to be defined by each Member State [→ Art. 3(1)(b)]. This threshold cannot exceed the threshold value set in Article 5(4) of Regulation 1370/2007, generally meaning an average annual value of less than EUR 1 000 000 or the annual provision of less than 300 000 km of public passenger transport services. For public service contracts directly awarded to small and medium-sized enterprises operating not more than 23 vehicles, the corresponding threshold values may be increased to an average annual value of less than EUR 2 000 000 or the annual provision of less than 600 000 km of public passenger transport services.

## PROCUREMENT TARGETS

➤ **When will the first quota start to apply?**

The final text of the Directive was published in the Official Journal of the European Union on 12 July 2019. The Directive enters into effect 20 days after the official publication, Member States will then have 24 months to transpose the Directive into national law. The first minimum procurement targets will have to be respected from 2 August 2021 onwards until the end of 2025. The second reference period then lasts from 1 January 2026 until the end of 2030 [→ Art. 5(1); Annex, table 4].

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<sup>4</sup> The thresholds mentioned in this paragraph are updated every two years by the European Commission and published in the Official Journal of the EU. The current values are valid for the period between December 2017 and December 2019.

➤ **What does the quota for clean buses look like for my country?**

The country-specific minimum quotas for clean buses (vehicle category M<sub>3</sub>) for each EU Member State are listed below. Please note that fifty percent of each quota will have to be fulfilled with zero-emission buses. Member States may also require their authorities or contracting entities to apply higher national targets [→ Art. 5(7); Annex, table 4].

Member State	2 August 2021 – 31 December 2025	1 January 2026 – 31 December 2030
Luxembourg, Sweden, Denmark, Germany, United Kingdom, Netherlands, Austria, Belgium, Italy, Ireland, Spain, Cyprus, Malta	<b>45%</b>	<b>65%</b>
Finland	41%	59%
France	43%	61%
Portugal	35%	51%
Greece	33%	47%
Slovenia	28%	40%
Czech Republic	41%	60%
Estonia	31%	43%
Slovakia	34%	48%
Lithuania	42%	60%
Poland	32%	46%
Croatia	27%	38%
Hungary	37%	53%
Latvia	35%	50%
Romania	24%	33%
Bulgaria	34%	48%

➤ **Do the national quotas have to be met for each individual contract or does the target apply to the collective total of all contracts nationally?**

The national targets are calculated based on the collective total of all relevant contracts over the given time period. Taking the example of the first reference period, the targets would be calculated as a percentage of the total number of road vehicles covered by the aggregate of all contracts for which the call for competition has been sent after 2 August 2021 and that are awarded before 31 December 2025 [→ Art. 5(1)]. During the transposition phase, Member States will then have the flexibility to decide how exactly the targets will be distributed on a national level. For example, the Directive suggests that factors like differences in economic capacity, air quality or population density could be used to determine how much each procurement entity has to contribute [→ Rec. 19]. The result of the transposition will vary between the different Member States; we will inform you once new information becomes available.

➤ **Do the national targets need to be met on an annual basis from the implementation date of the Clean Vehicles Directive onwards?**

According to the Directive, the minimum procurement targets are calculated for the whole reference period (e.g. from 2 August 2021 to 31 December 2025) and not for the individual years [→ Art. 5(1)]. However, Member States have a lot of flexibility to decide how the quotas should be met within their territory and could potentially decide on targets for individual years.

➤ **At what moment will my procurement be counted toward the quota?**

For calculating the minimum procurement targets, the date of completion of the public procurement procedure counts, by way of awarding of the contract [→ Art. 5(2)].

➤ **Why are the targets lower in some Member States than in others?**

According to the recitals of the Directive the targets should be set for Member States in accordance with their economic capacity (Gross Domestic Product per capita) and exposure to pollution (urban population density) [→ Rec. 18)]. Currently, no further information is available on how the targets were calculated.

➤ **Can an existing contract be extended in order to postpone having to apply the Directive?**

Provided that the modification of an existing contract is permissible under European and national public procurement laws and does not require a new procurement procedure, it does not appear to fall under the scope of the Clean Vehicles Directive [→ Art. 3]. Therefore, it could have the effect of postponing the application of the Directive to that specific contract.

➤ **Are there also procurement quotas for other types of vehicles?**

While the procurement of buses is subject to the highest quotas, there are also procurement targets for clean trucks and light-duty vehicles. Unlike for buses, there is no sub-target for the procurement of zero-emission vehicles for trucks and light-duty vehicles. Instead, the definition of a clean light-duty vehicle is based on a combined CO<sub>2</sub> and air-pollutant emission threshold [→ Art. 4(4)(a); Annex, table 2]. The specific quotas for the procurement of clean light-duty vehicles and trucks can be found in the Annex of the Directive [→ Annex, tables 3 and 4)].

## DEFINITION OF A CLEAN AND ZERO-EMISSION BUS

➤ **How does the Directive define a clean and zero-emission bus?**

Buses that use the following technologies/fuels are considered as clean

- electricity;
- hydrogen;
- most biofuels (*see below for more information*);
- synthetic and paraffinic fuels;
- natural gas, including biomethane (CNG as well as LNG)
- liquefied petroleum gas (LPG) [→ Art. 4(4)(b)].

A zero-emission bus is a clean bus (as defined above) without an internal combustion engine, or with an internal combustion engine that emits less than 1 g CO<sub>2</sub>/kWh or less than 1 g CO<sub>2</sub>/km [→ Art. 4(5)]. Vehicles that are retrofitted to clean or zero-emission vehicle standard also count towards the quotas [→ Art. 5(3)].

➤ **Where does the list of clean technologies for buses originate from?**

The aforementioned list of clean technologies was introduced into the Clean Vehicles Directive via a reference to Articles 2(1) and 2(2) of the DAFI Directive 2014/94/EU<sup>5</sup> [→ Art. 4(4)(b)]. UITP advocated for this link between the two Directives to increase policy coherence and allow for more flexibility in the choice of technologies.

➤ **Which biofuels are considered as “clean” according to the Directive?**

The Directive excludes biofuels that are produced from high indirect land-use change (ILUC)-risk feed stock for which a significant expansion of the production area into land with high-carbon stock is observed (i.e. significant deforestation related to an expansion of the production area for a certain

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<sup>5</sup> Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure

crop) [→ Art. 4(4)(b)]. On this matter, the Clean Vehicles Directive refers to the revised Renewable Energy Directive (RED II)<sup>6</sup>.

To supplement RED II, a delegated regulation was published in the Official Journal of the EU in May 2019 that sets out criteria for determining the aforementioned high ILUC-risk feedstocks<sup>7</sup>. Currently, palm oil is the only crop whose production crosses the thresholds set by the delegated regulation. Besides an exception for small land owners, fuels produced from palm oil would therefore not count as "clean" according to the Directive. Other biofuels and especially all certified low-ILUC-risk fuels should be a save option for achieving compliance with the Clean Vehicles Directive. Please note that liquid biofuels, synthetic and paraffinic fuels shall not be blended with conventional fossil fuels [→ Art. 4(4)(b)].

➤ **Are all types of hybrid electric buses considered as clean?**

The Clean Vehicles Directive itself is silent about hybrid vehicles, except for stating that the number of plug-in hybrids, i.e. rechargeable hybrid vehicles, is expected to increase in the coming years [→ Rec. 13]. Instead, it refers to Articles 2(1) of the DAFI Directive for defining a clean vehicle and to the definition of an electric vehicle in Article 2(2). In what appears to be a reference to hybrid vehicles, the definition of 'alternative fuels' in Article 2(1) includes the mention that these are fuels that serve, at least partly, as a substitute for fossil oil sources in the energy supply to transport. More importantly, Article 2(2) of the DAFI Directive defines an electric vehicle as "a motor vehicle equipped with a powertrain containing at least one non-peripheral electric machine as energy converter with an electric rechargeable energy storage system, which can be recharged externally". We interpret this to mean that only plug-in hybrid electric buses will count towards the targets for clean buses.

➤ **Will an electric bus with a CNG range extender be considered as a zero-emission bus?**

UITP interprets the definition of a zero-emission bus mentioned above to mean that even if partial zero-emission operation e.g. in city centres is possible, the bus would not count as zero-emission if it surpasses the aforementioned threshold when making use of the CNG range extender [→ Art. 4(5)]. However, the bus would still count towards the targets for clean buses.

➤ **Do electric buses with a diesel-powered heater or a fuel burner count as zero-emission buses?**

The Clean Vehicles Directive does not address the issue of heating, ventilation and air conditioning (HVAC) systems. Therefore, UITP is of the view that the Directive and its requirements for alternative fuels only cover the propulsion of the vehicle. Following this logic, an electric bus with a diesel-powered heater would count as a zero-emission bus. As with several other elements of the Directive, we expect the Member States to clarify this issue during the transposition phase.

➤ **Do trolley buses count as zero-emission buses?**

According to the Directive, trolley buses are considered to be zero-emission buses, provided that they run only on electricity or use only a zero-emission powertrain when not connected to the grid. Otherwise, they still count as clean vehicles [→ Rec. 18]. In countries where trolley buses are classified as rail vehicles and not as road vehicles, the national implementation of the Directive would have to clarify whether trolley buses count towards the procurement targets.

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<sup>6</sup> Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources

<sup>7</sup> Commission Delegated Regulation (EU) 2019/807 of 13 March 2019 supplementing Directive (EU) 2018/2001 of the European Parliament and of the Council

## FINANANCIAL SUPPORT

➤ **Does the Directive create new funding or financing mechanism to support its implementation?**

The Directive encourages public authorities to make available sufficient financial resources to contracting authorities and contracting entities, to avoid that the costs of compliance with the targets lead to higher ticket prices or a reduction in offer [→ Rec. 22]. While the Directive points out existing support measures and funds for the procurement of clean vehicles, such as the European Structural and Investment Funds or Horizon 2020, it does not create additional instruments to facilitate the deployment of clean vehicles [→ Rec. 27].

## REPORTING

➤ **How will targets be monitored and reported on?**

The targets will have to be monitored on a Member State level. By 2 August 2022, Member States have to inform the Commission of the measures taken to implement the Directive and plans for future implementation measures. Member States also have to submit a comprehensive report on the implementation on the targets by April 2026 and every three years thereafter. The Commission intends to review the implementation of the Directive by 31 December 2027. This is likely to include the setting of new targets and the inclusion of other vehicle categories, such as two- and three-wheeled vehicles [→ Art. 10].

➤ **Will the Directive include a well-to-wheel analysis of the different technologies in the future?**

Currently, the Directive does not take the well-to-wheel emissions of buses and other vehicles into consideration. However, in the foreseen review of the Directive's implementation by December 2027, the Commission is supposed to assess the possibility of aligning the Clean Vehicles Directive with methodologies for counting life-cycle CO2 emissions and well-to-wheel CO2 emissions [→ Recs 20 and 31]. It is therefore possible that these approaches will be considered for the period after 2030.

We remain at your disposal for any further questions you may have.

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