

# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	2008/0062(COD) Procedure completed
Cross-border exchange of information on road safety related traffic offences See also <a href="#">2014/0218(COD)</a>	
Subject 3.20.06 Transport regulations, road safety, roadworthiness tests, driving licence 3.20.15 Transport agreements and cooperation	

Key players				
European Parliament	Committee responsible	Rapporteur	Appointed	
	<b>TRAN</b> Transport and Tourism		18/04/2008	
		PSE <a href="#">AYALA SENDER Inés</a>		
		Shadow rapporteur		
		PPE <a href="#">BACH Georges</a>		
		ALDE <a href="#">SAVISAAR-TOOMAST Vilja</a>		
	Former committee responsible	Verts/ALE <a href="#">LICHTENBERGER Eva</a>		
	<b>TRAN</b> Transport and Tourism	ECR <a href="#">VAN DALEN Peter</a>		
			18/04/2008	
	Former committee for opinion	PSE <a href="#">AYALA SENDER Inés</a>		
	<b>LIBE</b> Civil Liberties, Justice and Home Affairs		28/05/2008	
		ALDE <a href="#">WEBER Renate</a>		
Council of the European Union	Council configuration	Meeting	Date	
	<a href="#">Competitiveness (Internal Market, Industry, Research and Space)</a>	<a href="#">3113</a>	29/09/2011	
	<a href="#">Agriculture and Fisheries</a>	<a href="#">3077</a>	17/03/2011	
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">3052</a>	02/12/2010	
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2913</a>	08/12/2008	
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2895</a>	09/10/2008	
European Commission	Commission DG	Commissioner		
	<a href="#">Mobility and Transport</a>	KALLAS Siim		

Key events			
18/03/2008	Legislative proposal published	<a href="#">COM(2008)0151</a>	Summary
10/04/2008	Committee referral announced in Parliament, 1st reading		

09/09/2008	Vote in committee, 1st reading		Summary
03/10/2008	Committee report tabled for plenary, 1st reading	<a href="#">A6-0371/2008</a>	
09/10/2008	Debate in Council	<a href="#">2895</a>	Summary
08/12/2008	Debate in Council	<a href="#">2913</a>	Summary
16/12/2008	Debate in Parliament		
17/12/2008	Results of vote in Parliament		
17/12/2008	Decision by Parliament, 1st reading	<a href="#">T6-0616/2008</a>	Summary
16/03/2011	Council position published	<a href="#">17506/1/2010</a>	Summary
24/03/2011	Committee referral announced in Parliament, 2nd reading		
24/05/2011	Vote in committee, 2nd reading		Summary
31/05/2011	Committee recommendation tabled for plenary, 2nd reading	<a href="#">A7-0208/2011</a>	
05/07/2011	Debate in Parliament		
06/07/2011	Decision by Parliament, 2nd reading	<a href="#">T7-0325/2011</a>	Summary
29/09/2011	Act approved by Council, 2nd reading		
25/10/2011	Final act signed		
25/10/2011	End of procedure in Parliament		
05/11/2011	Final act published in Official Journal		

## Technical information

Procedure reference	2008/0062(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	See also <a href="#">2014/0218(COD)</a>
Legal basis	Treaty on the Functioning of the EU TFEU 091-p1-ae
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/7/04733

## Documentation gateway

Legislative proposal	<a href="#">COM(2008)0151</a>	19/03/2008	EC	Summary
Document attached to the procedure	<a href="#">SEC(2008)0350</a>	19/03/2008	EC	
Document attached to the procedure	<a href="#">SEC(2008)0351</a>	19/03/2008	EC	
Document attached to the procedure	<a href="#">52009XX1205(02)</a> <a href="#">OJ C 310 05.12.2008, p. 0009</a>	08/05/2008	EDPS	Summary
Committee draft report	<a href="#">PE407.895</a>	01/07/2008	EP	

Amendments tabled in committee		<a href="#">PE409.623</a>	23/07/2008	EP	
Committee opinion	<b>LIBE</b>	<a href="#">PE409.621</a>	11/09/2008	EP	
Economic and Social Committee: opinion, report		<a href="#">CES1517/2008</a>	17/09/2008	ESC	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A6-0371/2008</a>	03/10/2008	EP	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T6-0616/2008</a>	17/12/2008	EP	Summary
Commission response to text adopted in plenary		SP(2009)402	29/01/2009	EC	
Council statement on its position		<a href="#">07384/2011</a>	15/03/2011	CSL	
Council position		<a href="#">17506/1/2010</a>	17/03/2011	CSL	Summary
Commission communication on Council's position		<a href="#">COM(2011)0148</a>	21/03/2011	EC	Summary
Committee draft report		<a href="#">PE462.590</a>	29/03/2011	EP	
Amendments tabled in committee		<a href="#">PE462.836</a>	20/04/2011	EP	
Committee recommendation tabled for plenary, 2nd reading		<a href="#">A7-0208/2011</a>	31/05/2011	EP	
Amendments tabled in committee		PE467.209	20/06/2011	EP	
Text adopted by Parliament, 2nd reading		<a href="#">T7-0325/2011</a>	06/07/2011	EP	Summary
Commission opinion on Parliament's position at 2nd reading		<a href="#">COM(2011)0533</a>	02/09/2011	EC	Summary
Draft final act		<a href="#">00044/2011/LEX</a>	26/10/2011	CSL	

#### Additional information

National parliaments	<a href="#">IPEX</a>
European Commission	<a href="#">EUR-Lex</a>

#### Final act

[Directive 2011/82](#)  
[OJ L 288 05.11.2011, p. 0001](#) Summary

Final legislative act with provisions for delegated acts

## Cross-border exchange of information on road safety related traffic offences

**PURPOSE** : to establish a system to facilitate the cross-border enforcement of sanctions for certain road traffic offences.

**PROPOSED ACT** : Directive of the European Parliament and of the Council.

**CONTENT** : the objective of this proposal is to facilitate the enforcement of sanctions against drivers who commit an offence in another Member State than the one where their vehicle is registered. The purpose of this system is to ensure that enforcement with respect to such offences takes place regardless of where in the European Union the offence has been committed and regardless of the place of registration of the vehicle with which it has been committed.

The offences covered by the proposal are speeding, driving under the influence of alcohol ("drink-driving"), not using a seat belt, and failing to stop at a red light. These are the traffic offences which cause the greatest number of accidents and deaths on the roads. According to the impact assessment study completed in 2007, which gives estimates for the year 2004, 30% of road deaths were caused by speeding, 25% by drink-driving, 17% by non-use of seat belts, and around 4% by failing to stop at a red traffic light. In other words, some 75% of all road deaths are caused by one (or more) of these four traffic offences.

In 2003 the Commission adopted a Recommendation on enforcement in the field of road safety (2004/345/EC) which contains best practices for enforcement in relation to the three main offences. It would appear from the trend in the number of road deaths to date that this recommendation is not sufficient to achieve the objective of cutting road deaths by half. If nothing is done, it is highly likely that the objective will not be achieved.

The proposal aims at setting up an EU electronic data exchange network in order to identify the holder of a vehicle so that the authorities in a Member State where the offence has been committed sends the vehicle registration number and other relevant information to the other Member States or the State of residence if this can be identified and requests information on the vehicle holder. The exchange of information between Member States takes place via an electronic network. Once the State where the offence was committed has received the requested information, it sends an offence notification to the vehicle holder using the standard form in annex.

This document contains the necessary information for payment of the amount due and information on the possibilities of contestation and appeal. As a last resort, in the case of non-payment by the offender, Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties can be applied.

Such a system is of particular value in relation to road traffic offences detected by automated devices where the identity of the offender cannot immediately be established, such as speeding or failing to stop at a red traffic light. It is also useful in order to enable the follow-up of offences where verification of the vehicle registration details may be necessary, in the case where the vehicle has been stopped. This is notably the case for drink driving.

The proposal does not deal with harmonising road traffic rules, nor with harmonisation of penalties for road traffic offences. It merely contains provisions of a purely administrative nature for putting in place an effective and efficient system of cross-border enforcement of the main road traffic offences. It does not interfere with Member States qualifications of these traffic offences, which can be either of an administrative or of a penal nature. Neither does it interfere with Member States' laws in terms of who should be liable for the offences in question.

The proposal does not interfere with the application of Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties (third pillar). The proposed directive applies to the phases before a final sanction has been imposed, whereas the framework decision starts to apply when the offender has not paid the fine and a final decision has been taken obliging him to do so.

Lastly, the Commission will be assisted by a Committee on road safety enforcement, which will deal with the development of common rules concerning the exchange of information by electronic means. This Committee will also be involved in possible adaptations of the model offence notification.

## Cross-border exchange of information on road safety related traffic offences

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OPINION OF THE EUROPEAN DATA PROTECTION SUPERVISOR on the Proposal for a Directive of the European Parliament and of the Council facilitating cross-border enforcement in the field of road safety.

The aforementioned proposal was sent by the Commission to the EDPS for consultation on 19 March 2008. The proposal constitutes a measure taken in the global objective of reducing fatalities, injuries and material damage resulting from traffic accidents, which constitutes a major goal of the EU road safety policy. In this context, the proposal intends to establish a system to facilitate the cross-border enforcement of sanctions for specified road traffic offences. In order to contribute to a non discriminatory and more effective enforcement towards traffic offenders, the proposal foresees the establishment of a system of cross-border exchange of information between Member States.

The EDPS considers that the proposal provides for sufficient justification for the establishment of the system for the cross-border exchange of information, and that it limits in an adequate way the quality of data to be collected and transferred. He also welcomes the redress procedure foreseen in the proposal, and in particular the fact that access to personal data will be possible in the country of residence of the data subject.

In order to improve the text with regard to the information of data subjects, the EDPS recommends that the way data subjects are informed of the fact they have specific rights should depend on the format of the offence notification. It is therefore important that Article 5 comprises all information relevant for the data subject, in a language that he/she understands.

With regard to security, while the EDPS has no objection to the use of an already existing infrastructure to exchange the information - as far as this limits financial or administrative burdens, he insists on the fact that this should not lead to interoperability with other databanks. The EDPS welcomes the limit put in the proposal on the possibilities of use of the data by Member States other than the one where the offence was committed.

Lastly, the EDPS is available for further consultation with regard to the common rules to be elaborated by the Commission on technical procedures for the electronic exchange of data between the Member States, and in particular with regard to the security aspects of these rules.

## Cross-border exchange of information on road safety related traffic offences

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The Committee on Transport and Tourism adopted a report drafted by Inés AYALA SENDER (PES, ES) and made some amendments to the proposal for a directive of the European Parliament and of the Council facilitating cross-border enforcement in the field of road safety. The committee felt that road safety checking and testing procedures should be harmonised so as to enable policies to be coordinated more effectively at European level.

The main amendments - made in 1st reading of codecision procedure - are as follow:

Definitions: Members inserted definitions for "central authority" and "Final Administrative Decision".

EU-wide road safety guidelines: a new clause 2a states that, with a view to pursuing a road safety policy aiming for a high level of protection for all road users in the EU and taking into account the widely differing circumstances within the EU, Member States should act, without prejudice to more restrictive policies and laws, in order to provide for a minimum set of road safety guidelines. To achieve that aim, the Commission shall adopt guidelines in accordance with the regulatory procedure with scrutiny. The guidelines shall conform to these basic principles:

- as regards speed, the use of automatic checking equipment on motorways, secondary roads, and urban roads shall be encouraged more specifically on those sections of the road network where the number of accidents caused by speeding is higher than average. The

recommendations adopted for the purposes of these guidelines shall seek to ensure that the number of speed checks using automatic equipment increases by 30% in Member States where the number of fatalities is above the EU average and the fall in the number of fatalities since 2001 is below the EU average. A good geographical coverage of the territory of each Member State should be ensured;

- as regards drink-driving, Member States shall, as a matter of priority, carry out random tests in places where, and at times when, non-compliance is frequent and increases the risk of accidents. Member States shall ensure that at least 30% of drivers can be tested annually;

- as regards the use of seat belts, intensive checking operations shall be conducted for at least 6 weeks in any one year by Member States where less than 70% of the population wear seat belts, in particular in places where and at times when the non-compliance is frequent;

- as regards failure to stop at a red traffic light, automatic checking equipment shall be used primarily for junctions where the rules are often breached and a higher than average number of accidents occur as a result of driving through a red traffic light.

The guidelines shall recommend that Member States exchange good practices. They must call on Member States which are most advanced in the area of automatic checking to provide technical assistance to those Member States which so request.

Comitology: the Community rules for the implementation and management of the electronic network must be determined according to the regulatory procedure with scrutiny. Common rules on the technical procedures for electronic exchange of the data between Member States must guarantee the security and confidentiality of the data transmitted.

Data protection: common rules must be laid down by in comitology by the Commission on personal data security and protection rules to prevent data being used for purposes other than those for which they were intended.

Offence notification: Members laid down the minimum requirements of an offence notification, stating that the content of the notification must be as complete as possible in order to furnish the holder of the registration certificate with information about the offence committed, the administrative authority responsible and possibilities of appeals.

Penalties: any financial penalty imposed under this Directive shall be non discriminatory in terms of nationality and shall be imposed under the law of the State of offence. The offence notification shall inform the holder that he must complete a reply form within a specified period if he does not intend to pay the penalty. It shall also inform the holder that, any refusal to pay, shall be communicated to the competent authority of the State of residence for enforcement of the decision. The notification of the offence shall notify the holder that his or her personal data shall be treated in accordance with the provisions of Directive 95/46/EC and shall point out his or her rights as regards access, correction and deletion. Should the holder not have been the driver at the time when the offence was committed, he or she shall supply the details of the identity of the driver in compliance with the law of the State of residence. This shall not apply where there is an agreement between two or more Member States aimed at dealing with problems arising from the implementation of this provision. . No penalty shall be issued in respect of an offence committed before the date of entry into force of this Directive.

Follow-up of road traffic infringements: a new article 5a seeks to ensure the possibility of enforcement of the financial penalties transmitted to the holder which are left unpaid by the latter either through Framework Decision 2005/214/JHA, or through the transmission of the final decision to the State of residence of the holder of the vehicle registration certificate.

Recognition and enforcement of sanctions : a new article 5b provides for a system, applying to relations between Member States, enabling sanction decisions to be recognised and enforced in cases where Framework Decision 2005/214/JHA is not applicable.

Information transmitted by the State of residence: new article 5c provides that the competent authority of the State of residence shall forthwith inform the competent authority of the State of offence of certain matters. This amendment completes the system of recognition and transmission of offences, as detailed in the preceding amendments, by providing that the State of residence must inform the State of offence of the follow-up given to the penalty decision.

Information for European drivers: the committee provided that Member States shall take appropriate action in order to provide road users with the necessary information about the measures implementing the Directive. Such information may be passed on through, among other organisations, road safety bodies, NGOs active in the field of road safety or automobile clubs. Member States shall ensure that the rules on speed limits are displayed on signs erected on every road traversed by their borders. On its website the Commission shall post a summary of the rules in force in Member States in the field covered by this Directive.

Assessment and report: two years after the directive has entered into force, the Commission should submit a report on its implementation and its effectiveness in terms of the goal of reducing the number of fatalities on the EU's roads. One specific point that the report should address is the implications for the effectiveness of the directive entailed in the fact that the person driving at the time of an offence can be difficult to identify when he or she is not the holder the registration certificate.

Annex: lastly, the committee made certain amendments to the Annex, notably so that it informs the holder of the offence certificate that his or her payment refusal may be transmitted to the authorities of his State of residence in order to allow a better follow-up of offences and sanction decisions.

## Cross-border exchange of information on road safety related traffic offences

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The Council held a public policy debate on a proposal for a Directive facilitating cross-border enforcement of legislation in the field of road safety.

Ministers agreed on the objectives of the Commission proposal and stressed the need for a lasting and effective European instrument. The Council requested the Permanent Representatives Committee to continue working on the proposal, taking account of comments from delegations. The Council will return to the subject at its meeting in December 2008.

A number of Member States expressed doubts as to the appropriateness of the legal basis chosen by the Commission for its proposal. Those delegations questioned whether there actually existed any Community competence on the basis of which the proposed Directive could be adopted.

## Cross-border exchange of information on road safety related traffic offences

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In public deliberation, the Council took note of a progress report from the Presidency concerning a proposal for a Directive facilitating cross-border enforcement in the field of road safety.

The Council invited its preparatory bodies to continue the proceedings with a view to reaching agreement as soon as possible.

Ministers reiterated their agreement on the objective of the Commission proposal and stressed the need for a lasting and effective European instrument. At its meeting in October 2008 the Council held a public policy debate on this proposal. A significant number of Member States expressed doubts as to the appropriateness of the legal basis chosen by the Commission for its proposal.

The Commission submitted its proposal in March 2008. The European Parliament should adopt its opinion at first reading in December 2008.

## Cross-border exchange of information on road safety related traffic offences

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The European Parliament adopted by 594 votes to 35 with 40 abstentions, a legislative resolution amending the proposal for a directive of the European Parliament and of the Council facilitating cross-border enforcement in the field of road safety. The report had been tabled for consideration in plenary by Inés AYALA SENDER (PES, ES) on behalf of the Committee on Transport and Tourism.

The main amendments - adopted under the 1st reading of the codecision procedure - were as follows:

**Definitions:** Members inserted definitions for "central authority" and "Final Administrative Decision", and amended the definition of "competent authority".

**EU-wide road safety guidelines:** a new clause 2a states that, with a view to pursuing a road safety policy aiming for a high level of protection for all road users in the EU and taking into account the widely differing circumstances within the EU, Member States shall act, without prejudice to more restrictive policies and laws, in order to provide for a minimum set of road safety guidelines within the scope of this Directive. To achieve that aim, the Commission will adopt EU-wide road safety guidelines in accordance with the regulatory procedure with scrutiny. The guidelines shall conform to the following basic principles:

-as regards speed, the use of automatic checking equipment on motorways, secondary roads, and urban roads shall be encouraged more specifically on those sections of the road network where the number of accidents caused by speeding is higher than average. The recommendations adopted for the purposes of these guidelines shall seek to ensure that the number of speed checks using automatic equipment increases by 30% in Member States where the number of fatalities is above the EU average and the fall in the number of fatalities since 2001 is below the EU average. A good geographical coverage of the territory of each Member State shall be ensured.

-as regards drink-driving, Member States shall, as a matter of priority, carry out random tests in places where, and at times when, non-compliance is frequent and increases the risk of accidents. Member States shall ensure that at least 30% of drivers can be tested annually;

-as regards the use of seat belts, intensive checking operations shall be conducted for at least six weeks in any one year by Member States where less than 70% of the population wear seat belts, in particular in places where and at times when the non-compliance is frequent;

-as regards failure to stop at a red traffic light, automatic checking equipment shall be used primarily for junctions where the rules are often breached and a higher than average number of accidents occur as a result of driving through a red traffic light. The guidelines shall recommend that Member States exchange good practices. They shall call on Member States which are most advanced in the area of automatic checking to provide technical assistance to those Member States which so request.

**Data:** information exchange with regard to the processing of personal data and the free movement of data in this connection shall take place in compliance with Directive 95/46/EC. The competent authorities of the other Member States shall not store the information sent by the State of offence. This information shall be sent solely for the purposes of the Directive, and, upon conclusion of proceedings, all data must be verifiably deleted. The notification of the offence shall notify the holder that his or her personal data shall be treated in accordance with the provisions of Directive 95/46/EC and shall point out his or her rights as regards access, correction and deletion.

**Comitology:** the Community rules for the implementation and management of the electronic network must be determined according to the regulatory procedure with scrutiny. Common rules on the technical procedures for electronic exchange of the data between Member States must guarantee the security and confidentiality of the data transmitted. There must be common rules on personal data security and protection rules to prevent data being used for purposes other than those for which they were intended.

**Offence notification:** This shall, as a minimum, contain the subject of the notification, the name of the authority responsible for enforcing the financial penalties, the name of the competent authority responsible for applying the Directive and a description of the relevant details of the offence concerned. It shall specify the amount of the financial penalty, the simplest payment procedures, and the date by when it must be paid, the possibilities for contesting the grounds for the offence notification and for appealing against a decision imposing a financial penalty, and the procedure to be followed in case of dispute or appeal.

**Penalties:** any financial penalty shall be non discriminatory in terms of nationality and shall be imposed under the law of the State of offence. The offence notification shall inform the holder that he must complete a reply form within a specified period if he does not intend to pay the financial penalty. It shall also inform the holder that, any refusal to pay, shall be communicated to the competent authority of the State of residence for enforcement of the decision. Should the holder not have been the driver at the time when the offence was committed, he or she shall supply the details of the identity of the driver in compliance with the law of the State of residence. This shall not apply where there is an agreement between two or more Member States aimed at dealing with problems arising from the implementation of this Article. For the purposes of this Directive no financial penalty shall be issued in respect of an offence committed before the date of entry into force of this Directive.

**Follow-up of road traffic infringements:** a new article 5a states that where the financial penalty has not been paid and the procedures to be followed in the case of a dispute or appeal have been exhausted, Framework Decision 2005/214/JHA shall apply as regards the financial penalties referred to in Article 1 of that Framework Decision. In cases of non-payment, but in respect of financial penalties which do not fall

within the scope of that Framework Decision, the competent authority of the State of offence shall transmit the final decision to the competent authority of the State of residence for enforcement of the financial penalty.

Recognition and enforcement of financial penalties: a new article 5b provides for a system, applying to relations between Member States, enabling sanction decisions to be recognised and enforced in cases where Framework Decision 2005/214/JHA is not applicable.

Information transmitted by the State of residence: new article 5c provides that the competent authority of the State of residence shall forthwith inform the competent authority of the State of offence of certain matters. This amendment completes the system of recognition and transmission of offences, as detailed in the preceding amendments, by providing that the State of residence must inform the State of offence of the follow-up given to the penalty decision.

Information for drivers in the EU: Member States shall take appropriate action in order to provide road users with the necessary information about the measures implementing the Directive. Such information may be passed on through, among other organisations, road safety bodies, NGOs active in the field of road safety or automobile clubs. The rules on speed limits must be displayed on signs erected on every motorway crossing their borders. The Commission shall post a summary of the rules in force in Member States in the field covered by the Directive on its website.

Revision and report: two years after entry into force of the directive, the Commission shall submit a report on its implementation by the Member States and its effectiveness in terms of the goal of reducing the number of fatalities on the EU's roads. On the basis of that report, the Commission shall consider how the scope of this Directive might be extended to cover other road traffic infringements. In the same report the Commission shall put forward proposals to harmonise checking equipment on the basis of Community criteria and road safety checking procedures. The Commission shall further assess how the Member States have, on a voluntary basis, implemented the EU-wide road safety guidelines referred to in Article 2a and shall consider whether those recommendations should be made mandatory. If appropriate, the Commission shall submit a proposal amending this Directive.

Annex: Parliament made some amendments to the Annex.

## Cross-border exchange of information on road safety related traffic offences

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The Council position at first reading shares the same objectives and underlying principles as the Commission proposal. However, it uses a different legal basis and provides for a simpler implementation system than what is foreseen in the Commission proposal. The Council approach furthermore provides for a better protection of personal data which are exchanged under the Directive, and its scope includes four additional offences which were not foreseen in the Commission proposal.

The main issues are as follows:

(1) Legal basis: the legal basis of the Commission proposal is Article 71(1) (c) of the Treaty establishing the European Community (transport), now Article 91(1) (c) of the TFEU. Considering the legal options provided by the TFEU, the Council chose another legal basis (Article 87(2) TFEU, police cooperation).

The European Parliament, which voted its opinion before the entry into force of the Lisbon Treaty, followed the Commission proposal on this issue. The Commission has not been able to endorse the change of legal basis and, therefore, unanimity is required to reach an agreement amongst the Member States.

(2) Scope: the Commission proposed that the scope of the Directive would include four offences (speeding, drink-driving, non-use of a seat-belt and failing to stop at a red traffic light). The Council in its position at first reading added four new offences: (i) driving under the influence of drugs, (ii) failing to wear a safety helmet, (iii) use of a forbidden lane, and (iv) illegally using a cell phone or any other communication devices while driving.

The Council specified that this list may be extended in the future through a revision of the Directive, following a Commission report to the European Parliament and the Council at the latest five years after the entry into force of the Directive.

The European Parliament followed the Commission proposal with respect to the scope of the Directive. It suggested that the Commission should submit a report on its implementation and effectiveness to the European Parliament and the Council, which could be followed by the extension of the scope of the Directive, in essence similarly to what is provided for in the Council position at first reading (except that the EP suggested a deadline of two years). However, the EP amendment also indicates that such report could include Commission proposals to harmonize checking equipment, as well as an assessment of the implementation of road safety guidelines.

(3) Definitions: the Council modified the Commission proposal in this respect to adapt the list of definitions to the new wording of its position at first reading. The European Parliament followed largely the Commission proposal, but introduced four additional definitions:

- it extended the definition of "holder" so that motorcycles are also covered by the Directive. The spirit of that amendment has been included in the Council position at first reading since one of the offences covered by the Directive is "failing to wear a safety helmet";
- it specified that a "competent authority" is a single contact point. That amendment has not been included in the Council position at first reading as some Member States have more than one registration authority;
- two other definitions ("central authority", "Final Administrative Decision") could not be accepted as the Council position at first reading does not use such wording.

(4) Information letter: the Council position at first reading provides for a template for the information letter whose content is very similar to the offence notification included in the Commission proposal. However, considering that the information letter is non compulsory (while the offence notification is), the information letter only advises the offender to fill in the reply form attached to it. The European Parliament followed the Commission proposal with some modifications aiming at adding more information to the offence notification.

(5) Data protection: although the Commission proposed to use Directive 95/46/EC to ensure data protection under the Directive, the Council considered that in the specific context of the Directive, in view of the new legal basis, it would be more appropriate to refer to the data protection provisions set out in Council Framework Decision 2008/977/JHA, as well as in Council Decisions 2008/615/JHA and 2008/616/JHA.

The European Parliament followed largely the Commission proposal but insisted on a strong system of data protection to be put into place: (i)

ensuring the confidentiality of the data transmitted; (ii) ensuring that the data subject is aware of his/her rights of access, rectification and deletion of his/her personal data; (iii) preventing any personal data gathered under the Directive from being used for purposes other than those specifically related to road safety.

(6) Information of EU citizens: the Council included in its position at first reading the obligation for the Commission to make available on its website a summary in all EU official languages of the rules in force in the Member States concerning road safety.

Other amendments adopted by the European Parliament not included in the Council position at first reading concern in particular the:

- introduction of harmonised fixed penalties for road traffic offences;
- harmonisation of road safety control practices and of the technical equipment used for that purpose (through the adoption of EU-wide road safety guidelines);
- the introduction of a system of follow-up of road traffic offences, recognition and enforcement of sanctions, and transmission of information concerning decisions on such offences when financial penalties remain unpaid;
- committee procedure;
- general principles of law (non discriminatory financial penalties imposed by the law of the State of Offence; non-retroactivity).

## Cross-border exchange of information on road safety related traffic offences

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Firstly, it has to be underlined that, while the Commission accepted most of the EP amendments in first reading since they were strengthening its initial proposal, the Council did not include any of them in its position.

Regarding the substance of the Council's position, in general the text will facilitate the cross-border exchange of information on road safety traffic offences and can meet the Commission's main objectives in terms of ensuring a high level of protection for all road users in the EU. The adopted text contributes to the fulfilment of the new policy orientations on road safety in the EU. The adopted text is expected to have a strong deterrent effect, by encouraging all drivers to respect traffic law.

The second main objective followed by the Commission in its proposal is related to the follow-up given to the identification of the offender, once the information is available. This objective appears only partly met in the Council's position at first reading and the Commission believes that there is room for strengthening the text on this aspect, building upon the relevant EP amendments made in first reading.

With regard to the choice of the legal basis, the Commission considered that from a legal and institutional perspective the "police cooperation" legal basis (Article 87 paragraph 2) does not constitute the appropriate legal basis for this Directive (even if there was unanimity on this legal basis). Against this background, the Commission entered a statement to the Council minutes reserving its right to use all legal means at its disposal. The Commission also noted that there was unanimity in the Council on the "police cooperation" legal basis.

The Commission considers that the proposed Directive has a clear road safety objective and falls therefore within the scope of Article 91 TFEU. In addition, the proposed Directive does not have any impact on the national classification of the relevant offences.

Besides, under Article 87 (2), three Member States enjoy a derogative regime on police cooperation ("opt-in" for the United Kingdom and Ireland and "opt-out" for Denmark), which implies that potentially, three Member States would not be covered by the proposed Directive.

In addition, the Commission considers from a legal and institutional perspective that Article 87, paragraph 2, TFEU does not constitute the appropriate legal basis and therefore reserves its right to use all legal means at its disposal.

For the second reading, possible compromises should be explored in order to find appropriate solutions allowing to cover both administrative and criminal offences.

## Cross-border exchange of information on road safety related traffic offences

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The Committee on Transport and Tourism adopted the recommendation for second reading contained in the report drafted by Inés AYALA SENDER (S&D, ES) on the Council position at first reading with a view to the adoption of a directive of the European Parliament and of the Council facilitating the cross-border exchange of information on road safety related traffic offences.

It recommended that the European Parliament's position at second reading under the ordinary legislative procedure should be to amend the Commission proposal as follows:

Information exchange procedure between Member States: the data elements which are necessary to conduct the search shall be in compliance with the requirements set out in the new Annex Ia introduced by the MEPs. This new technical Annex which replaces the reference to Decision 2008/616/JHA on the Prüm Convention should be modified through delegated acts, as it would contain non-essential elements.

The Member State of the offence shall, under this Directive, use the data obtained in order to establish who is liable under national law for road safety related traffic offences.

Member States shall take all necessary measures to ensure that the exchange of information is carried out by interoperable electronic means without exchange of data involving other databases. Member States shall ensure that this exchange of information is conducted in a cost efficient and secure manner guaranteeing the confidentiality of the data transmitted.

Information letter as regards the offence: the amendment clarifies that the where the Member State of the offence shall decide whether to initiate follow-up proceedings in relation to the road safety related traffic offences or not. In the event that the Member State decides to initiate such proceedings, it shall inform, with confirmation of receipt and on a strictly confidential basis.

Information on the nature, date and time of the offence, as well as on the law infringed and the penalty involved, constitutes essential information that should, in all cases, be provided in the information letter.

The owner, the holder of the vehicle or the otherwise identified person suspected of committing the road safety related traffic offence shall be



notified by means of the information letter that his or her personal data shall be treated in accordance with the provisions of Council Framework Decision 2008/977/JHA and shall point out his or her rights as regards access, rectification and erasure, as referred to in Articles 17 and 18 of this Framework Decision.

Reports from the Member States to the Commission: Member States shall send a report to the Commission by 24 months and every two years thereafter. The content of the reporting obligations should be completed in order to clarify the number of refusals, the type of offences and the number of information letters sent.

Data protection: an amendment reintroduces the first reading of the Parliament and aims to guarantee the right of the person identified: it forbids the storage of the data collected and limits their use to the purpose of this Directive and clarifies the use and recording of data by the Member State of registration and offence. The competent authorities shall ensure that the data transmitted is treated confidentially and that the data subject is aware of his/her rights of access, rectification and deletion of his/her personal data and prevent any personal data gathered under this Directive from being used for purposes other than those specifically related to road safety. They shall not store the information sent by the Member State of the offence. That information shall be sent solely for the purposes of this Directive, and, upon conclusion of proceedings, all data must be verifiably deleted. The Member State of registration shall record only the date and the competent authority of the Member State of the offence to whom the information was sent.

Information to drivers in the Union: in line with the European Parliament's position at first reading, an amendment reinforces the obligation to inform the drivers about the implementation of the Directive and about the different traffic rules in Europe concerning speed limits.

Delegated acts: a new Article inserts the procedure of delegated acts to modify the Annex on the technical requirements. The delegation of power shall be conferred on the Commission for a period of five years from the date of entry into force of this Directive.

Revision of the Directive: by 36 months after the entry into force of this Directive, the Commission shall submit a report on the application of this Directive by the Member States. In its report, the Commission shall focus in particular on the following aspects and shall make proposals to cover those aspects:

- the assessment of whether other road safety related traffic offences should be added to the scope of this Directive;
- the assessment of the effectiveness of this Directive on the reduction in the number of fatalities on Union roads, in particular whether its effectiveness is affected by the geographical coverage of this Directive;
- the assessment of the necessity to harmonise automatic checking equipment and procedures. In this context, the Commission is invited to develop at Union level road safety guidelines within the framework of the common transport policy in order to ensure greater convergence of the enforcement of road traffic rules by Member States through comparable methods and practices. These guidelines may cover at least the non-respect of speed limits, drink-driving, non-use of seat belts and failure to stop at a traffic red light. The Commission shall
- take into account the orientations for guidelines mentioned in Annex Ib Part I;
- the assessment of the need to strengthen the enforcement of road safety related traffic offences through their harmonised follow-up procedures in the case of non-payment of a financial penalty, within the framework of the common transport policy. The Commission shall take into account the criteria listed in Annex Ib Part II;
- the assessment of the possibility to harmonise traffic rules at Union level where appropriate;
- the assessment of the software applications, with a view to ensuring proper implementation of this Directive as well as guaranteeing an effective, expeditious, secure and confidential exchange of specific VRD.

## Cross-border exchange of information on road safety related traffic offences

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The European Parliament adopted a legislative resolution on the Council position at first reading with a view to the adoption of a directive of the European Parliament and of the Council facilitating the cross-border exchange of information on road safety related traffic offences.

It adopted its position at second reading under the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise negotiated between the European Parliament and the Council. The main amendments are as follows:

Information exchange procedure between Member States: the data elements which are necessary to conduct the search shall be in compliance with the requirements set out in Annex -I. The Commission shall be empowered to adopt delegated acts concerning the update of Annex -I in the light of technical progress to take into account relevant changes to Decision 2008/615/JHA and Decision 2008/616/JHA or where required by EU legislative acts directly relevant for the update of Annex -I.

For the purposes of the exchange of data, each Member State shall designate a national contact point.

Member States shall take all necessary measures to ensure that the exchange of information is carried out by interoperable electronic means without exchange of data involving other databases. This exchange of information shall be conducted in a cost efficient and secure manner guaranteeing the security and protection of the data transmitted. The amended versions of the software applications shall provide for both online real-time exchange mode and batch exchange mode, the latter allowing for the exchange of multiple requests or responses within one message.

Information letter on the road safety related traffic offence: the amended text stipulates that the Member State of the offence shall decide whether to initiate follow-up proceedings in relation to the road safety related traffic offences or not. In the event that the Member State of the offence decides to initiate such proceedings, that Member State shall, in conformity with its national law, inform the owner, the holder of the vehicle or the otherwise identified person suspected of committing the road safety related traffic offence accordingly.

This information shall, as applicable under national law, include the legal consequences thereof within the territory of the Member State of the offence under the law of that Member State.

When sending the information letter to the owner, the holder of the vehicle or the otherwise identified person suspected of committing the road safety related traffic offence, the Member State of the offence shall, in accordance with its law, include any relevant information, notably the nature of the road safety related offence, the place, date and time of the offence, the title of the texts of the national law infringed and the penalty and, where appropriate, data concerning the device used for detecting the offence.

Reporting by Member States to the Commission: Member States shall send: (i) a preliminary report to the Commission by twelve months

following the end of the transposition period; (ii) a comprehensive report to the Commission by thirty months following the end of the transposition period and every two years thereafter.

The comprehensive reports shall indicate the number of automated searches conducted by the Member State of the offence addressed to the national contact point of the Member State of registration following offences committed on its territory, together with the type of offences for which requests were addressed and the number of failed requests. They shall also include a description of the situation at national level in relation to the follow-up given to the road safety related offences, based on the proportion of such offences which have been followed up by information letters.

Data protection: the amended text provides that each Member State shall:

- provide that personal data processed under this Directive shall be, within an appropriate time period, rectified if inaccurate, erased or blocked when they are no longer required, as provided for under Council Framework Decision 2008/977/JHA, and that a time limit for the storage of data is established in accordance with the Framework Decision;
- provide that, in respect of all processing of personal data pursuant to this Directive, this data is only used for the purposes set out in the Directive, and that the data subjects have the same right to information, the right to access, the right to rectification, erasure and blocking, the right to compensation and the right to judicial redress as those adopted under national law in implementation of relevant provisions of Council Framework Decision 2008/977/JHA.

Any person concerned shall have the right to obtain information on which personal data recorded in the Member State of registration were transmitted to the Member State of the offence, including the date of the request and the competent authority of the Member State of the offence.

Information to drivers in the Union: Member States shall provide road users with the necessary information about the rules applicable in their territory and the measures implementing this Directive in association with, among other organisations, road safety bodies, non-governmental organisations active in the field of road safety or automobile clubs.

Delegated acts: a new Article inserts the procedure of delegated acts to modify the Annex on the technical requirements. The delegation of power shall be conferred on the Commission for a period of five years from the date of entry into force of this Directive.

Revision of the Directive: by 36 months after the entry into force of this Directive, the Commission shall submit a report on the application of this Directive by the Member States. In its report, the Commission shall focus in particular on the following aspects and shall make proposals to cover those aspects:

- the assessment of whether other road safety related traffic offences should be added to the scope of this Directive;
- the assessment of the effectiveness of this Directive on the reduction in the number of fatalities on Union roads;
- the assessment of the necessity to harmonise automatic checking equipment and procedures. In this context, the Commission is invited to develop at Union level road safety guidelines within the framework of the common transport policy in order to ensure greater convergence of the enforcement of road traffic rules by Member States through comparable methods and practices. These guidelines may cover at least the non-respect of speed limits, drink-driving, non-use of seat belts and failure to stop at a traffic red light;
- the assessment of the need to strengthen the enforcement of road safety related traffic offences through their harmonised follow-up procedures in the case of non-payment of a financial penalty;
- the assessment of the possibility to harmonise traffic rules at Union level where appropriate;
- the assessment of the software applications, with a view to ensuring proper implementation of this Directive as well as guaranteeing an effective, expeditious, secure and confidential exchange of specific VRD.

## Cross-border exchange of information on road safety related traffic offences

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The European Parliament adopted its second reading amendments on 6 July 2011 following informal contacts with the Council and the Commission. The Commission confirms that it endorses the overall compromise amendment voted, but recalls its position already expressed at first reading concerning the choice of the 'police cooperation' legal basis by both co-legislators on the one hand and the absence of correlation tables in the text on the other hand.

Legal basis: with regard to the choice of the legal basis, the Commission considers that from a legal and institutional perspective the 'police cooperation' legal basis (Article 87 paragraph 2), which was retained by the Council at first reading and not challenged by the European Parliament at second reading, does not constitute the appropriate legal basis for this Directive. Against this background, the Commission entered a statement to the Council minutes reserving its right to use all legal means at its disposal.

Statement on the correlation table: the agreement does not foresee any obligation for Member States to transmit to the Commission a correlation table, in spite of the general line usually taken by the European Parliament on the matter.

The Commission issued a statement which regrets the absence of correlation tables in the main body of the text and confirms the commitment of the Commission towards ensuring that Member States establish correlation tables linking the transposition measures they adopt with the Directive. In a spirit of compromise however and in order to facilitate the immediate adoption of this proposal, the Commission also indicated that it can accept the substitution of the obligatory provision on correlation tables included in the text with a relevant recital encouraging Member States to follow this practice, but stressed that its position followed in this file shall not be considered as a precedent.

Amendments of the European Parliament at second reading: apart from the legal basis issue, the Council's position at first reading has already been supported by the Commission as far as its substance is concerned. The most important changes introduced by the amendments of the European Parliament to the Council's position are as follows:

- information letter: clarification that, when the Member State of offence decides to initiate a follow-up procedure, an information letter to the offender is obligatory;
- strengthening of the provisions on data protection in order to avoid the possible misuse of personal data;
- introduction of a new provision on delegated acts in order to enable the modification of the technical annex regarding the data set for the information exchange;

- strengthened revision clause in order for the Commission to assess whether new legislative proposals are needed on the development of common standards for automatic checking equipment, on the harmonisation of traffic rules as well as on the establishment of common criteria regarding the follow-up procedures. It also includes a Commission statement that it will examine the need to develop guidelines at EU level in order to ensure greater convergence in the enforcement of road traffic rules by Member States.

## Cross-border exchange of information on road safety related traffic offences

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**PURPOSE:** to establish a system to facilitate the cross-border enforcement of sanctions for certain road traffic offences.

**LEGISLATIVE ACT:** Directive 2011/82/EU of the European Parliament and of the Council facilitating the cross-border exchange of information on road safety related traffic offences.

**CONTENT:** the Council today adopted, on the basis of a text agreed with the European Parliament in second reading, a directive on cross-border exchange of information on road traffic offences.

This Directive aims to ensure a high level of protection for all road users in the Union by facilitating the cross-border exchange of information on road safety related traffic offences and thereby the enforcement of sanctions, where those offences are committed with a vehicle registered in a Member State other than the Member State where the offence took place.

Scope: this Directive shall apply to the following road safety related traffic offences:

- speeding;
- non-use of a seat-belt;
- failing to stop at a red traffic light;
- drink-driving;
- driving under the influence of drugs;
- failing to wear a safety helmet;
- use of a forbidden lane;
- illegally using a mobile telephone or any other communication devices while driving.

Procedure for the exchange of information between Member States: for the investigation of the road safety related traffic offences, the Member States shall allow other Member States' national contact points, access to the following national VRD, with the power to conduct automated searches on: (a) data relating to vehicles; and (b) data relating to owners or holders of the vehicle.

Member States shall take all necessary measures to ensure that the exchange of information is carried out by interoperable electronic means without exchange of data involving other databases. They shall ensure that this exchange of information is conducted in a cost efficient and secure manner and ensure the security and protection of the data transmitted.

Information letter on the road safety related traffic offence: once that person is identified, the Member State in which the traffic offence took place will send him or her a letter setting out the details of the offence committed and the fine imposed in accordance with its law. In any case, it will depend on the Member State in which the offence has been committed and on its national law to determine whether and how the offence will be prosecuted.

When sending the information letter to the owner, the holder of the vehicle or the otherwise identified person suspected of committing the road safety related traffic offence, the Member State of the offence shall, in accordance with its law, include any relevant information, notably the nature of the road safety related traffic offence, the place, date and time of the offence, the title of the texts of the national law infringed and the sanction and, where appropriate, data concerning the device used for detecting the offence.

In the event that the Member State of the offence decides to initiate such proceedings, that Member State shall, in conformity with its national law, inform the owner, the holder of the vehicle or the otherwise identified person suspected of committing the road safety related traffic offence accordingly.

Reporting by Member States to the Commission: Member States shall send a preliminary report to the Commission by 7 November 2014. They shall also send a comprehensive report to the Commission by 6 May 2016 and every two years thereafter.

The comprehensive report shall:

- indicate the number of automated searches conducted by the Member State of the offence addressed to the national contact point of the Member State of registration following offences committed on its territory, together with the type of offences for which requests were addressed and the number of failed requests;
- include a description of the situation at national level in relation to the follow-up given to the road safety related traffic offences, based on the proportion of such offences which have been followed up by information letters.

Data protection: the provisions on data protection set out in Framework Decision 2008/977/JHA shall apply to personal data processed under this Directive.

Any person concerned shall have the right to obtain information on which personal data recorded in the Member State of registration were transmitted to the Member State of the offence, including the date of the request and the competent authority of the Member State of the offence.

Information for road users in the Union: the Commission shall make available on its website a summary in all official languages of the institutions of the Union of the rules in force in Member States in the field covered by this Directive. Member States shall provide information on these rules to the Commission.

Revision of the Directive: by 7 November 2016, the Commission shall submit a report to the European Parliament and the Council on the application of this Directive by the Member States. In its report, the Commission shall focus in particular on the following aspects and shall, as appropriate, make proposals to cover those aspects:

- an assessment of whether other road safety related traffic offences should be added to the scope of this Directive;

- an assessment of the effectiveness of this Directive on the reduction in the number of fatalities on Union roads;
- an assessment of the need for developing common standards for automatic checking equipment and for procedures;
- an assessment of the need to strengthen the enforcement of sanctions with regard to road safety related traffic offences and to propose common criteria concerning the follow-up procedures in the case of non-payment of a financial penalty.

ENTRY INTO FORCE: 06/11/2011.

TRANSPOSITION: from 07/11/2013.

DELEGATED ACTS: the Commission shall be empowered to adopt delegated acts in accordance with the Article concerning the update of Annex I in the light of technical progress. The delegation of power shall be conferred on the Commission for a period of five years from 6 November 2011. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period. The delegation of power may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect on the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.