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Committee on Transport and Tourism

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DRAFT REPORT

on the proposal for a directive of the European Parliament and of the Council
on facilitating cross-border exchange of information on road safety related
traffic offences
(COM(2014)0476 – C8-0113/2014 – 2014/0218(COD))

Committee on Transport and Tourism

Rapporteur: Inés Ayala Sender

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ■ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a directive of the European Parliament and of the Council on facilitating cross-border exchange of information on road safety related traffic offenses (COM(2014)0476 – C8-0113/2014 – 2014/0218(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2014)0476),
 - having regard to Article 294(2) and Article 91(1)(c) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0113/2014),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the Committee of the Regions of xxxx¹,
 - having regard to the opinion of the European Economic and Social Committee of xxxx²,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A8-0000/2014),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive
Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) In the framework of the Prüm Decisions, the processing of VRD containing personal data is subject to the

¹ Not yet published in the Official Journal.

² Not yet published in the Official Journal.

specific provisions on data protection set out in Chapter VI of Council Decision 2008/615/JHA. In that respect, Member States may apply those specific provisions to such personal data which are also processed for the purposes of this Directive whilst ensuring that the processing of data related to all the offences listed in article 2 of this Directive comply with the national provisions implementing Directive 95/46/EC.

Or. en

Justification

This amendment takes over the Council text and the suggestion made by the European Data Protection Supervisor. It aims to clarify the new data protection arrangements that need to be applied in respect of the offences covered by this directive.

EXPLANATORY STATEMENT

The text of this proposal is the same as that of Directive 2011/82/EU on the cross-border exchange of information on road safety related traffic offences (adopted by an overwhelming majority in Parliament and unanimously by the Council in 2011), with the exception of two significant changes. First, there is a new legal basis, which means that a number of technical changes need to be made throughout the text. And second, the fact that the legal basis has now changed to transport means that the scope of the directive needs to be widened so that it also applies to the three Member States that were not covered by it before.

These changes have been made in response to the judgment of the Court of Justice of the European Union of 6 May 2014 in Case C-43/12, in which the Court found that Directive 2011/82/EU had been adopted with an incorrect legal basis (police cooperation, Article 87(2) of the Treaty on the Functioning of the European Union). The Court held that transport safety was the correct legal basis. With regard to the content of the directive, the Court held that the system for the exchange of information between the Member State authorities, on which the directive was based, was clearly the means rather than the aim of the directive, and that the aim of the directive was to improve road safety. Parliament had taken the view from the outset that transport was the correct legal basis for the directive.

Although the Court annulled the directive, it acknowledged that its aims were important and, so as to prevent any legal vacuum being created, stated that the effects of the directive should be maintained for a period of 12 months to allow Parliament and the Council to correct the text and adopt a new version with transport safety as its legal basis.

So we now have a new proposal for a directive from the Commission, and although it was the Commission that brought the annulment proceedings, the Commission wasted no time in submitting a new text to Parliament containing only the changes made necessary by the judgment (i.e. the parts relating to the legal basis and the territorial scope).

The origins of Directive 2011/82/EU

The origins of the proposal lie in the studies carried out by the Commission in 2007. A study on EU road traffic offence data showed that the percentage of non-residents involved was higher than it was at national level, especially where excessive speed was concerned. One of the main reasons why there were more offences involving foreign vehicles was that because the authorities did not know where the owner of the vehicle lived, they could not notify the person concerned of the penalty, especially where the offence had been picked up by an automatic traffic enforcement camera. Attempts had been made to solve the problem by means of bilateral treaties, but these resulted in more disputes and dissatisfaction among traffic authorities. In the eyes of the general public in the EU, then, this relative impunity for foreign drivers undermined the road safety objectives and the very legitimacy of such traffic checks. Drivers with 'home' number plates think that all offenders should be treated equally. The ultimate aim of the proposal, therefore, was precisely that: to put an end to a situation in which foreign drivers could drive with impunity on the EU's roads.

The proposal made it possible to close this loophole and allow Member State traffic and road safety authorities to ask for posing a danger to road safety, and notify them of the offence in the language of their Member State of residence.

Whilst considering the Commission's original 2008 proposal, Parliament suggested strengthening the approach by making it possible not only to notify vehicle owners of offences but also to impose penalties on non-residents in the same way as residents. At first reading, Parliament backed transport as the legal basis. It also strengthened the data protection elements suggested by the European Data Protection Supervisor, improved the provisions relating to providing information to the public, and brought up the need for further standardisation of automatic cameras and the possibility of harmonising traffic rules and regulations.

Whilst Parliament supported the proposal, the Council blocked it, and things became caught up in a sterile debate on the legal basis. Not until the Belgian Presidency in 2010 – three years later – was it possible, at Parliament's behest, to break the deadlock that had only served to delay the urgent matter of coming up with a way of combating cross-border traffic offences. The possibility of breaking the deadlock by accepting that the legal basis should be changed to police cooperation entailed two major changes: restricting the procedure for exchanging data on vehicle owners; and reducing the territorial scope of the proposal, with the UK, Denmark and Ireland being excluded in line with their prerogatives under the Treaties.

Faced with an opportunity to move matters forward, Parliament, which never wavered in its belief that the legal basis should be transport as per Article 11, pragmatically chose to look at changing the legal basis to make it possible to take a first step towards an embryonic instrument to address the issue of cross-border fines. In return Parliament succeeded in including a strong review clause under which the Commission had to bring forward an implementation assessment report by November 2016. On the basis of this report, the Commission would, if necessary, bring forward new legislative proposals making it possible to follow up on drivers regardless of the country in which their vehicle was registered, and thereby adding to the information exchange arrangements that had been agreed upon.

Given the technological progress that had been made in detecting certain offences, such as driving under the influence of drugs, Parliament and the Council agreed at second reading to include in the scope of the directive four new areas that had by then acquired sufficient maturity as offences and also posed a risk to the safety of the driver and other road users (driving under the influence of drugs, riding a motorcycle without a helmet, using a mobile phone whilst driving and use of a forbidden lane).

The road to adoption had been a rocky one, but Directive 2011/82/EU finally entered into force on 11 November 2013, showing its potential from day one. There was a drop in the number of offences committed by foreign drivers. The directive was a very effective deterrent for foreign drivers, who are now aware that thanks to these new rules it is possible for them to be notified of any offence they commit whilst abroad. Over the past year it has helped the EU pursue its targets of cutting road deaths by half and injuries by 40% by 2020.

The rapporteur's position

The rapporteur would first like to thank the Commission for coming forward so quickly with a

new proposal that sticks to the areas referred to in the judgment and only makes changes that are absolutely necessary, i.e. it changes the legal basis to transport safety, it includes Denmark, the UK and Ireland in the scope and, in line with the new legal basis, makes a number of changes connected with current data protection legislation.

The Council has been looking at the proposal and the Member States agree on the need for the new directive to be adopted as soon as possible. To date, 20 of the 25 Member States to which the directive applies have transposed it into national law, and initial indications suggest that the new system is now starting to have the desired effect. Denmark, the UK and Ireland, who had previously decided not to take part, have no reservations and are asking for nothing more than a transitional period similar to the one the other Member States had. They are already considering how they might help improve the system the next time it comes up for review.

Parliament therefore has to adopt a new directive before 6 May 2015 so as to avoid a situation in which almost all the Member States that have already transposed the annulled directive into their national legislation are left in a state of legal limbo. So as legislators we are now faced with a necessary, sensitive and urgent job to do in an area that Parliament has always considered to be a political priority: ensuring the best possible level of road safety.

Furthermore, the road accident victims' associations, traffic authorities, road traffic offence prosecutors and road safety associations in general that welcomed the adoption of the previous directive would not understand if Parliament were not to do everything in its power to avoid a legal vacuum. Members of the public are of course never thrilled to receive a letter telling them they have committed a traffic offence, but they too welcome the fact that everyone in the EU will be treated equally, no matter where their vehicle is registered.

The new directive also comes at a critical time. Although the EU is once again on target with its aim of cutting road deaths by 50% by 2020, there has been a spike in the number of road accident victims for various reasons: people's cars are getting older; there have been swingeing cuts in infrastructure maintenance spending thanks to the economic crisis; there is a lack of funding for infrastructure and development geared towards improving road safety, etc. For this reason the rapporteur would like the directive to be adopted before the deadline set by the Court so as to avoid a legal vacuum being created that would worsen this alarming trend. The rapporteur takes the view that the cross-border motoring penalties directive served as a non-discriminatory deterrent in countering impunity on the EU's roads, and getting rid of it would be the wrong thing to do.

The rapporteur is also keen to obtain guarantees that the changes made in connection with Directive 95/46/EC do not run counter to the high level of person data protection that has been a feature of the proposal's path through Parliament since 2008. With this in mind, and as was the case with the Commission's initial proposal, the rapporteur considers the opinion of the European Data Protection Supervisor to be most important. The three institutions' legal services and the Supervisor himself all think that the technical changes the Commission has made to the proposal are the correct ones, and therefore the rapporteur does not wish to make any changes to the substance.

The rapporteur would merely like to make clarifications to the draft report with a view to entering into negotiations with the Council. With this in mind she proposes accepting a new

recital that includes the clarifications made by the Council and the suggestion made by the European Data Protection Supervisor.