EUROPEAN PARLIAMENT

2004 *2009*

Committee on Civil Liberties, Justice and Home Affairs

2008/0062(COD)

11.8.2008

AMENDMENTS
6 - 36

Draft opinion
Renate Weber
(PE409.621v01-00)

on the proposal for a directive of the European Parliament and of the Council facilitating cross-border enforcement in the field of road safety

Proposal for a directive
(COM(2008)0151 – C6-0149/2008 – 2008/0062(COD))

AM_Com_LegOpinion

Amendment 6
Sarah Ludford

Proposal for a directive
Title

Text proposed by the Commission	*Amendment*
DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
facilitating cross-border enforcement in the field of road safety	facilitating cross-border enforcement in the field of road safety ***and road traffic***
(Text with EEA relevance)	(Text with EEA relevance)

Or. en

Justification

The directive represents a real opportunity to assist Europe's cities and regions in developing concrete sustainable transport polices, in the light of the European Commission's Green Paper on urban transport and the European Parliament's on-going scrutiny. Accordingly the directive's title and legal base should be amended.

Amendment 7
Sarah Ludford

Proposal for a directive
Citation 1

Text proposed by the Commission	*Amendment*
Having regard to the Treaty establishing the European Community, and in particular ***Article 71(1)(c)*** thereof,	Having regard to the Treaty establishing the European Community, and in particular ***Article 71(1)*** thereof,

Or. en

Justification

The directive represents a real opportunity to assist Europe's cities and regions in developing concrete sustainable transport polices, in the light of the European Commission's Green Paper on urban transport and the European Parliament's on-going scrutiny. Accordingly the

directive's title and legal base should be amended.

Amendment 8
Sarah Ludford

Proposal for a directive
Recital 1 a (new)

Text proposed by the Commission	*Amendment*
	(1a) Individual Member States have introduced controls to manage traffic movements and parking to achieve greater mobility in their towns and cities, where demand to use the road infrastructure exceeds supply.

Or. en

Justification

The directive should reflect the efforts of Europe's cities and regions to manage traffic and parking as part of their urban mobility strategies. This is particularly important in the light of the European Commission's Green Paper on urban transport and the European Parliament's on-going scrutiny.

Amendment 9
Sarah Ludford

Proposal for a directive
Recital 1 b (new)

Text proposed by the Commission	*Amendment*
	(1b) In order to implement sustainable transport policies, as a key element in the fight against climate change, innovative schemes including traffic restrictions or the use of market-based instruments are increasingly being used to tackle specific challenges in certain areas, such as pollution and greenhouse gas emissions, congestion and traffic management.

Or. en

Justification

The directive should reflect the efforts of Europe's cities and regions to implement innovative sustainable transport policies such as road charging, green zones and traffic restrictions to tackle challenges such as climate change, pollution and congestion.

Amendment 10
Sarah Ludford

Proposal for a directive
Recital 1 c (new)

Text proposed by the Commission	*Amendment*
	(1c) Such instruments may involve payment for the use of roads or to enter into green or environmental zones. In order not to restrict the flow of traffic, there are often no physical barriers at the boundaries of such areas, so enforcement is carried out by administrative means. The credibility of such schemes depends in part on their fair and equal enforcement.

Or. en

Justification

The directive should reflect the efforts of Europe's cities and regions to implement sustainable transport policies such as road charging, green zones and traffic restrictions. If these policies are to be accepted by citizens, they must be enforced fairly, sanctions should not be avoided and support for schemes undermined simply because an offender comes from another member state.

Amendment 11
Sarah Ludford

Proposal for a directive
Recital 3

Text proposed by the Commission	*Amendment*
(3) In order to improve road safety throughout the European Union and to ensure equal treatment between resident and non-resident offenders, enforcement should be facilitated irrespective of the Member State in which the vehicle with which an offence has been committed is registered. To this end, a system of cross-border exchange of information should be put in place.	(3) In order to improve road safety***, road traffic management and encourage the development of sustainable transport policies*** throughout the European Union and to ensure equal treatment between resident and non-resident offenders, enforcement should be facilitated irrespective of the Member State in which the vehicle with which an offence has been committed is registered. To this end, a system of cross-border exchange of information should be put in place.

Or. en

Justification

The directive should reflect the efforts of Europe's cities and regions to implement innovative sustainable transport policies such as road charging, green zones and traffic restrictions to tackle challenges such as climate change, pollution and congestion.

Amendment 12
Sarah Ludford

Proposal for a directive
Recital 4

Text proposed by the Commission	*Amendment*
(4) 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	(4) 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***,*** failing to stop at a red traffic light***, driving in a bus lane or breaching a road charging or green zone***. It is also useful in order to enable the follow-up of offences where

case where the vehicle has been stopped. This is notably the case for drink driving.	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.

Or. en

Justification

The directive should reflect the efforts of Europe's cities and regions to implement sustainable transport policies and traffic management policies. Some of these will rely on automated detection (to avoid congestion resulting from physical toll barriers). If these policies are to be accepted by citizens, they must be enforced fairly, sanctions should not be avoided and support for schemes undermined simply because an offender comes from another member state.

Amendment 13
Sarah Ludford

Proposal for a directive
Recital 5

Text proposed by the Commission	*Amendment*
(5) The types of road traffic offences to be covered by this system should reflect their seriousness in terms of endangering road safety and ***should cover offences which are qualified as traffic offences in the laws of all Member States***. It is accordingly appropriate to make provision in relation to speeding, drink-driving, non-use of a seat-belt, ***and*** failing to stop at a red traffic light**.** The Commission will continue to monitor developments across the EU in respect of other road traffic offences ***with serious implications for*** road safety and if appropriate will consider proposing a revision of the Directive in order to cover them within its scope***, such as driving under the influence of drugs, use of mobile phones while driving and uninsured driving***.	(5) The types of road traffic offences to be covered by this system should reflect their seriousness in terms of endangering road safety and ***efforts by Member States to manage traffic movements and parking to achieve greater mobility and establish sustainable transport policies***. It is accordingly appropriate to make provision in relation to speeding, drink-driving, non-use of a seat-belt**,** failing to stop at a red traffic light, ***non-payment of road user charges, non-payment of charges for using, or not respecting the rules of, an environmental zone, parking contraventions, bus and tram lane offences and moving traffic offences***. The Commission will continue to monitor developments across the EU in respect of other road traffic offences ***affecting*** road safety, ***such as driving under the influence of drugs, use of mobile phones***

while driving and uninsured driving, and sustainable transport policies and if appropriate will consider proposing ***as soon as possible*** a revision of the Directive***, following a report on the implementation thereof,*** in order to cover them within its scope.

Or. en

Justification

The directive should reflect the efforts of Europe's cities and regions to implement sustainable transport policies such as road charging, green zones and traffic restrictions. If these policies are to be accepted by citizens, they must be enforced fairly, sanctions should not be avoided and support for schemes undermined simply because an offender comes from another member state.

Amendment 14
Sarah Ludford

Proposal for a directive
Recital 6

Text proposed by the Commission	*Amendment*
(6) In order to ensure its effectiveness, the system of enforcement should cover the phases between the detection of an offence and the sending of an offence notification, based on a standard model, to the holder of the registration certificate of the vehicle concerned. Once a final decision has been taken, the Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties ***applies***.	(6) In order to ensure its effectiveness, the system of enforcement should cover the phases between the detection of an offence and the sending of an offence notification, based on a standard model, to the holder of the registration certificate of the vehicle concerned. Once a final decision has been taken, the Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties ***may apply. Where Framework Decision 2005/214/JHA cannot be applied, for example because sanction decisions do not fall within the scope of criminal law, the effectiveness of the sanctions should nevertheless be ensured by other sanction enforcement measures.***

Or. en

Justification

The effectiveness of sanctions transmitted between Member States is ensured by Framework Decision 2005/214/JHA for decisions involving criminal offences. However, this Decision does not cover all such cases within the European Union; other means of sanction enforcement must therefore be established in order to complete the framework agreement, particularly where sanction decisions are taken by administrative authorities.

Amendment 15
Sarah Ludford

Proposal for a directive
Article 1 – paragraph 1 – point d a (new)

Text proposed by the Commission	*Amendment*
	(da) non-payment of road user charges;

Or. en

Justification

The directive should reflect the efforts of Europe's cities and regions to implement innovative sustainable transport policies such as road charging, green zones and traffic restrictions to improve the speed of public transport modes in cities to encourage modal shift. Challenges such as climate change, pollution and congestion are common to all Europe's cities and an effective cross-border enforcement mechanism to underpin these innovative policies is crucial.

Amendment 16
Sarah Ludford

Proposal for a directive
Article 1 – paragraph 1 – point d b (new)

Text proposed by the Commission	*Amendment*
	(db) non-payment for use, or non-respect, of environmental zones;

Or. en

Justification

The directive should reflect the efforts of Europe's cities and regions to implement innovative sustainable transport policies such as road charging, green zones and traffic restrictions to improve the speed of public transport modes in cities to encourage modal shift. Challenges such as climate change, pollution and congestion are common to all Europe's cities and an effective cross-border enforcement mechanism to underpin these innovative policies is crucial.

Amendment 17
Sarah Ludford

Proposal for a directive
Article 1 – paragraph 1 – point d c (new)

Text proposed by the Commission	*Amendment*
	(dc) parking offences;

Or. en

Justification

The directive should reflect the efforts of Europe's cities and regions to implement innovative sustainable transport policies such as road charging, green zones and traffic restrictions to improve the speed of public transport modes in cities to encourage modal shift. Challenges such as climate change, pollution and congestion are common to all Europe's cities and an effective cross-border enforcement mechanism to underpin these innovative policies is crucial.

Amendment 18
Sarah Ludford

Proposal for a directive
Article 1 – paragraph 1 – point d d (new)

Text proposed by the Commission	*Amendment*
	(dd) moving traffic offences;

Or. en

Justification

The directive should reflect the efforts of Europe's cities and regions to implement innovative sustainable transport policies such as road charging, green zones and traffic restrictions to improve the speed of public transport modes in cities to encourage modal shift. Challenges such as climate change, pollution and congestion are common to all Europe's cities and an effective cross-border enforcement mechanism to underpin these innovative policies is crucial.

Amendment 19
Sarah Ludford

Proposal for a directive
Article 1 – paragraph 1 – point d e (new)

Text proposed by the Commission	*Amendment*
	(de) any other major road safety offences;

Or. en

Justification

The directive should reflect the efforts of Europe's cities and regions to implement innovative sustainable transport policies such as road charging, green zones and traffic restrictions to improve the speed of public transport modes in cities to encourage modal shift. Challenges such as climate change, pollution and congestion are common to all Europe's cities and an effective cross-border enforcement mechanism to underpin these innovative policies is crucial.

Amendment 20
Sarah Ludford

Proposal for a directive
Article 2 – point d

Text proposed by the Commission	*Amendment*
(d) "competent authority" means ***the authority in charge of the national database on the registration documents for vehicles.***	(d)"competent authority" means ***a single contact point in each Member State responsible for facilitating the application of this Directive.***

Or. en

Amendment 21
Sarah Ludford

Proposal for a directive
Article 2 – point d a (new)

Text proposed by the Commission	*Amendment*
	(da) "central authority" means the authority responsible for ensuring data protection in each Member State;

Or. en

Amendment 22
Sarah Ludford

Proposal for a directive
Article 2 – point d b (new)

Text proposed by the Commission	*Amendment*
	(db) "Final Administrative Decision" means any final decision requiring a financial penalty to be paid, other than a final decision falling within the definition set out in Article 1 of Framework Decision 2005/214/JHA;

Or. en

Amendment 23
Sarah Ludford

Proposal for a directive
Article 2 – point h a (new)

Text proposed by the Commission	*Amendment*
	(ha) "non-payment of road user charges" means the failure to pay a specified charge for using a highway. This includes charges for entering zones or using

highways with environmental criteria, or failure to comply with such standards requiring the payment of a charge;

Or. en

Justification

The directive should reflect the efforts of Europe's cities and regions to implement innovative sustainable transport policies such as road charging, green zones and traffic restrictions to improve the speed of public transport modes in cities to encourage modal shift. Challenges such as climate change, pollution and congestion are common to all Europe's cities and an effective cross-border enforcement mechanism to underpin these innovative policies is crucial.

Amendment 24
Sarah Ludford

Proposal for a directive
Article 2 – point h b (new)

Text proposed by the Commission	*Amendment*
	(hb) "environmental zone" means a designated area into which vehicles not meeting certain emissions standards may not enter, or may not enter unless they pay a charge;

Or. en

Justification

The directive should reflect the efforts of Europe's cities and regions to implement innovative sustainable transport policies such as road charging, green zones and traffic restrictions to improve the speed of public transport modes in cities to encourage modal shift. Challenges such as climate change, pollution and congestion are common to all Europe's cities and an effective cross-border enforcement mechanism to underpin these innovative policies is crucial.

Amendment 25
Sarah Ludford

Proposal for a directive
Article 2 – point h c (new)

Text proposed by the Commission	*Amendment*
	(hc) "parking offence" means leaving a vehicle stationary in a designated parking space, in such a way that it fails to comply with the terms and conditions of use of that space or on a road in such a way that it contravenes a prohibition on leaving vehicles in that road, under the law in force in the State of offence;

Or. en

Justification

The directive should reflect the efforts of Europe's cities and regions to implement innovative sustainable transport policies such as road charging, green zones and traffic restrictions to improve the speed of public transport modes in cities to encourage modal shift. Challenges such as climate change, pollution and congestion are common to all Europe's cities and an effective cross-border enforcement mechanism to underpin these innovative policies is crucial.

Amendment 26
Sarah Ludford

Proposal for a directive
Article 5 – paragraph 2

Text proposed by the Commission	*Amendment*
2. The offence notification shall contain a description of the relevant details of the offence concerned and the amount of the financial penalty that the holder is required to pay, the possibilities for the holder to contest the grounds for the offence notification and to appeal against a decision imposing a financial penalty, and the procedure to be followed in case of	2. The offence notification shall contain ***the subject of the notification, the name of the authority responsible for enforcing the sanctions, the name of the competent authority responsible for applying this Directive and*** a description of the relevant details of the offence concerned and the amount of the financial penalty that the holder is required to pay, ***and the date by which it must be paid,*** the possibilities for

dispute or appeal.	the holder to contest the grounds for the offence notification and to appeal against a decision imposing a financial penalty, and the procedure to be followed in case of dispute or appeal.

Or. en

Justification

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. The offence notification should also clearly state the date by which the penalty should be paid.

Amendment 27
Philip Bradbourn

Proposal for a directive
Article 5 – paragraph 2 a (new)

Text proposed by the Commission	*Amendment*
	2a. 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.

Or. en

Amendment 28
Sarah Ludford

Proposal for a directive
Article 5 - paragraph 3

Text proposed by the Commission	*Amendment*
3. The offence notification shall inform the holder that he must complete a reply form if he does not intend to pay the penalty.	3. 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. ***Where payment is refused, the holder shall be informed in***

the same notification that the refusal may be transmitted to the competent authority of the State of residence for enforcement of the penalty decision.

Or. en

Justification

This amendment seeks to ensure that offences are effectively followed up by allowing the transmission of a refusal to pay for whatever reason to the authorities of the State of residence of the certificate holder. The offence notification should also clearly state the date by which a response is required.

Amendment 29
Philip Bradbourn

Proposal for a directive
Article 5 – paragraph 5 a (new)

Text proposed by the Commission	*Amendment*
	5a. No penalty shall be issued in respect of an offence committed before the date of entry into force of this Directive.

Or. en

Amendment 30
Sarah Ludford

Proposal for a directive
Article 5 a (new)

Text proposed by the Commission	*Amendment*
	Article 5a
	Follow-up of road traffic offences
	1. 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 sanctions referred to in Article 1 of that Framework Decision.

2. In the same cases of non-response as those referred to in paragraph 1 but in respect of financial penalties which do not fall within the scope of Framework Decision 2005/214/JHA, the competent authority of the State of offence shall transmit the final administrative decision to the competent authority of the State of residence for enforcement of the penalty.

Or. en

Justification

This amendment seeks to ensure the possibility of enforcement of the financial penalties transmitted to the holder which are left unpaid by the latter either through the 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.

Amendment 31
Sarah Ludford

Proposal for a directive
Article 5 b (new)

Text proposed by the Commission	*Amendment*
	Article 5b
	Recognition and enforcement of sanctions
	1. The competent authority of the State of residence shall recognise a final administrative decision transmitted pursuant to Article 5a(2), without any formality and shall without delay take all the measures necessary to implement that decision, on the understanding that the implementation of that decision shall be governed by the law of the State of residence in the same way as a financial penalty in the State of residence, except if the competent authority decides to invoke one of the following reasons for non-recognition or non-implementation:
	(a) the law of the State of residence provides for immunity which makes implementation of the decision impossible;
	(b) the party concerned has not been informed of his or her right to appeal and of the deadline for lodging such an appeal.
	2. The competent authority of the State of offence shall immediately inform the competent authority of the State of residence of any decision or measure which stands in the way of implementation of the decision. The State of residence shall cease the implementation of the decision as soon as it has been informed of that decision or measure by the competent authority of the State of offence.

Or. en

Justification

This amendment provides for a system for the recognition and enforcement of penalties where Framework Decision 2005/214/JHA is not applicable. The enforcement of the sanction is a matter for the State of residence of the holder of the vehicle registration certificate.

Amendment 32
Sarah Ludford

Proposal for a directive
Article 5 c (new)

Text proposed by the Commission	*Amendment*
	Article 5c
	Information transmitted by the State of residence
	The competent authority of the State of residence shall forthwith inform the competent authority of the State of offence by any means which leaves a written record:
	(a) confirming that a final decision requiring enforcement has been received and acted upon;
	(b) of any decision not to implement a decision together with the reasons justifying such a decision;
	(c) of the implementation of the decision as soon as it has been completed.

Or. en

Justification

This amendment completes the system of recognition and transmission of offences, as detailed in the preceding amendment, by providing that the State of residence must inform the State of offence of the follow-up given to the penalty decision, whatever it may be.

Amendment 33
Sarah Ludford

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission	*Amendment*
1. The Commission shall be assisted by a Committee on road safety enforcement.	1. The Commission shall be assisted by a Committee on road safety ***and road traffic*** enforcement.

Or. en

Justification

The Committee should also take into account road traffic enforcement.

Amendment 34
Sarah Ludford

Proposal for a directive
Article 8 a (new)

Text proposed by the Commission	*Amendment*
	Article 8a
	Evaluation and reports
	1. Two years after the entry into force of this Directive, the Commission shall present to the European Parliament and the Council a report on the implementation of this Directive by the Member States.
	2. On the basis of that report, the Commission shall study the possibility of extending the scope of this Directive to include other road traffic offences, in particular the use of mobile phones or drugs and driving without a licence.
	3. The Commission shall submit, in the same report, proposals to harmonise control equipment on the basis of Community criteria and road safety

control practices.

Or. en

Justification

The Commission must present a report on implementation and the prospects for amending the directive.

Amendment 35
Sarah Ludford

Proposal for a directive
ANNEX – page 3 (Relevant details concerning the offence) - point b - subparagraph 3

Text proposed by the Commission	*Amendment*
speeding, drink-driving, non-use of seatbelt or child restraint system, failing to stop at a red traffic light.	speeding, drink-driving, non-use of seatbelt or child restraint system, failing to stop at a red traffic light, ***non-payment of road user charges, non-payment for use, or non-respect, of environmental zones, parking offences, bus and tram lane offences, moving traffic offences, major road safety offences.***

Or. en

Justification

If the scope of the directive is extended, the notice needs to reflect this change.

Amendment 36
Sarah Ludford

Proposal for a directive
ANNEX – page 3 (Relevant details concerning the offence) - point c - subparagraph 1

Text proposed by the Commission	*Amendment*
Type of device for detection of speeding, drink-driving, failing to stop at a red traffic light or non-use of seat belt:	Type of device for detection of speeding, drink-driving, failing to stop at a red traffic light or non-use of seat belt, ***non-payment***

of road user charges, non-payment for use, or non-respect, of environmental zones, parking offences, bus and tram lane offences, moving traffic offences, major road safety offences:

Or. en

Justification

If the scope of the directive is extended, the notice needs to reflect this change.