

COMMISSION OF THE EUROPEAN COMMUNITIES

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2008/0062 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

facilitating cross-border enforcement in the field of road safety

(presented by the Commission)

{SEC(2008) 350}
{SEC(2008) 351}

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

• Grounds for and objectives of the proposal

Since 2001, the aim of EU road safety policy has been to halve the number of road fatalities by the year 2010. In 2001, 54 000 people died on the roads in the 27 countries, which are today Member States of the European Union, and many measures have been taken since then in order to achieve the objective of a 50% reduction. In 2007, for the first time since 2001, no progress has been made in the reduction of deaths on the roads in the EU. The reduction of the number of fatalities each year was 6 % in 2004, 5% in 2006 and 0% in 2007. In 2007, the number of deaths was still 43.000, equivalent to five medium-sized passenger planes crashing in the EU every week. Over the period from 2001 to 2007, the number of fatalities has decreased by 20%, while a 37% reduction would have been necessary to achieve the objective of halving the number of road fatalities. Because enforcement has proven to be a very effective instrument for reducing the number of fatalities, the Commission has, as part of its Work Programme for 2007, adopted a proposal for a directive in this area.

Currently, traffic offences are often not sanctioned if they are committed with a vehicle which is registered in another Member State than the Member State where the offence has been committed. The problem is particularly acute for offences that are registered automatically using road-side cameras, where there is no direct contact between the driver and the police. Public acceptance of enforcement is vital to the ongoing effort to reduce casualties and evasion by non-resident drivers could undermine this acceptance.

The share of non-residents in road traffic appears to be around 5% for the countries where this information is available[1]. The share of non-resident drivers in speeding offences shows a range of 2.5% to 30%[2]. These figures suggest that non-resident drivers are relatively more involved in speeding offences than resident drivers[3].

A number of bilateral agreements have been concluded between Member States, but these have proved difficult to implement. Moreover, failure to pursue cross-border enforcement throughout the EU not only results in the impunity of non-resident offenders who are not covered by any bilateral agreement, but also discriminates against resident traffic offenders.

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1 Source: Eurostat. The 5% is based on the evidence from a selected group of countries. It means that of the vehicle-kms made on the roads, some 5% is made by vehicles registered in another country. Results show 5.5 % in France (30 billion vehicle-kilometres), 3.9 % in Germany, 4.1 % in the Netherlands, and 3.9 % in the UK.

2 2.5% in Denmark, 4% in Finland, 6% in the Netherlands, 8% in Catalonia (Spain), 14% in Belgium, 15% in France, and 30% in Luxembourg.

3 In France, their share in traffic is 5.5%, but their share in offences 15%. The corresponding figures in the Netherlands are 4.1% traffic share, but 6% share in offences (Centraal Justitieel Incasso Bureau, the Netherlands).

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 (hereinafter referred to as "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.

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 an offence has been committed, can send out a notification to the holder of the vehicle involved in the offence.

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, since these matters are best left to the Member States. 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 text applies without making any distinction between the offences concerned in terms of their legal qualification as being criminal or administrative, since this is different in the different Member States; it can readily be applied irrespective of such a qualification.

Considering all these limitations, the proposal takes the principle of subsidiarity fully into account.

The proposed system remains in line with the traditional way of dealing with cross-border offences: they are pursued by the Member State where the offence has been committed. Its added value is the introduction of a mechanism, which does not currently exist, with which the authorities concerned can identify and pursue foreign offenders.

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.

- **General context**

Progress in reducing the number of deaths has been decreasing over the period between 2001 and 2007. In 2007, no progress has been made; the percentage of reduction of fatalities was 0% for the EU.

The available data indicate that the main causes of fatal accidents are speeding, drink-driving and non-use of a seat belt. This was already the case in 1999 and has not changed since then.

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.

On 21 October 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 these three main offences. It would appear from the trend in the number of road deaths to date that this recommendation, which is a non-binding instrument, 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.

- **Existing provisions in the area of the proposal**

The Commission Recommendation of 21 October 2003 on enforcement in the field of road safety in the areas of speeding, drink-driving and non-use of seat belts focuses on best enforcement practices and deals in less detail with cross-border enforcement. The current proposal focuses on the cross-border issues; it does not deal with enforcement practices as such. The main similarity is that both of these acts deal with enforcement of mainly the same traffic offences.

- **Consistency with the other policies and objectives of the Union**

The proposed action is in line with EU policies on human health and the environment. It will also complement Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties, which sets out a mechanism for cross-border recognition and enforcement of final decisions concerning financial penalties, among others for traffic offences.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Consultation methods, main sectors targeted and general profile of respondents

Stakeholders have been consulted from the early stages of the project. In 2004, under the SARTRE 3 project (Social Attitude to Road Traffic Risks in Europe) 24 000 EU citizens were asked for their views on road safety enforcement.

On 20 July 2006 a meeting was held with the expert group set up following the Commission Recommendation of 21 October 2003 on enforcement in the field of road safety to discuss the objectives and the scope of regulatory action at EU level.

In addition, various bilateral meetings have been held with a number of stakeholders, especially Member States and enforcement authorities.

A public consultation, via the Commission's "Europa" website, was held from 6 November 2006 to 19 January 2007, in accordance with applicable Commission standards. A total of 54 comments were received from various stakeholders. All of the comments are published on the Road Safety Site of the "Europa" portal of the Commission.

A stakeholders' meeting was held on 27 February 2007 to which all authors of comments and all Member States were invited.

The Commission drew up a questionnaire directed at the traffic police forces of Europe in order to gather information on road traffic enforcement in Europe. Twenty-one countries replied to the questionnaire, and those replies were used as a basis for a panel discussion to which the traffic police forces were invited in order to give their comments with a view to action by the EU.

Summary of responses and how they have been taken into account

All participants agreed on the problem definition and intended EU action: increasing road safety through better enforcement, both in substance and in procedural matters. However, disagreement remained as to what constituted the appropriate legal framework. The responses have been taken into account.

An open consultation was conducted over the internet from 6 November 2006 to 19 January 2007. The Commission received 54 responses. The results are available on http://ec.europa.eu/transport/roadsafety/enforcement/introduction_en.htm#consultation.

- **Collection and use of expertise**

Scientific fields/areas of expertise concerned

Road safety and road safety enforcement

Methodology used

Meetings with experts from the Member States; consultation of and meetings with stakeholders; various research projects; other projects and studies.

Main organisations/experts consulted

Transport policy officials and road traffic enforcement officers from the Member States, TISPOL (European Traffic Police Network) and the European Transport Safety Council.

Summary of advice received and used

The existence of potentially serious risks with irreversible consequences was not mentioned.

It was unanimously agreed that, unless further action in the form of better road safety enforcement was undertaken, it would not be possible to reduce the unacceptable number of deaths on the roads, in accordance with the objective supported by all the EU Institutions. There was disagreement over the appropriate legal means to pursue that objective.

Means used to make the expert advice publicly available

The reactions from stakeholders to the consultation paper were published on the Commission website:

http://ec.europa.eu/transport/roadsafety/enforcement/introduction_en.htm#consultation

- **Impact assessment**

The impact assessment considers five options, each of which addresses both cross-border enforcement and good enforcement practices to be implemented in Member States.

The first option consists in maintaining the current situation unchanged.

In the second option, non-resident offenders are prosecuted on their return to the country of offence, based on cooperation with the country of residence. This option involves non-regulatory measures which could be taken without any need to change the existing laws or to introduce new legislation at EU level. The Commission Recommendation on enforcement in the field of road safety (2004/345/EC) encourages Member States to apply best enforcement practices. In terms of cross-border enforcement, national rules are improved.

The third and fourth options also involve non-regulatory measures for the purposes of enforcement, based on the existing Commission Recommendation. As regards cross-border enforcement, option 3 consists in setting up an EU electronic data exchange network in order to identify the holder of the vehicle; option 4 is based on mutual recognition of evidence and transmission of the relevant data to the authorities of the State where the vehicle is registered, for enforcement of offences and implementing of

sanctions by these authorities.

The fifth option is also based on the transmission of evidence to the State of residence for cross-border enforcement. It differs from options 2, 3 and 4 in that it comprises regulatory measures for the application of good enforcement practices by all Member States. This option also includes measures on the standardisation of enforcement devices.

The last option brings more social, economic and environmental benefits than the other options (social: fewer people killed and injured on the roads; economic: significant financial benefits owing to fewer accidents, hence less personal and material damage, and via financial penalties; environmental: due to less speeding, thus less pollution and lower fuel consumption).

However, at the present stage of development of Community law, option 5 is not practicable because, on substance, it is contrary to the principle of subsidiarity and, on procedure, it overlaps with Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties. Consequently, the proposed action is based on option 3. It aims at setting up a system for the exchange of relevant data between Member States with a view to facilitating the sanctioning of certain traffic offences committed in one Member State with a vehicle registered in another Member State. Contrary to option 4, it leaves action to follow-up on offences to the Member State where the offence has been committed. It covers the phases from when an offence is recorded up to sending the offence notification to the holder of the vehicle registration certificate. It does not deal with cases where the addressee has refused to pay and is convicted to do so by a final decision, since the above mentioned Council Framework Decision 2005/214/JHA provides for the mutual recognition and enforcement of such final decisions.

The Commission carried out an impact assessment as set out in the Work Programme; the impact assessment report can be accessed on SEC(2008) 351.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The proposal introduces the technical mechanisms and legal instruments necessary for carrying out cross-border enforcement with respect to road traffic offences that endanger road safety.

The proposed procedure envisages that the exchange of information between Member States starts when an offence has been committed in a Member State with a vehicle that is registered in another Member State. The 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. The proposal covers the offences of speeding, drink-driving, non-use of seat belts and failing to stop at a red traffic light.

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.

- **Legal basis**

The legal basis for taking measures at EU level in the field of road safety is Article 71(1) ECT, which states that "… the Council shall, acting in accordance with the procedure referred to in Article 251 …., (c) lay down measures to improve transport safety."

- **Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall within the exclusive competence of the Community.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reasons.

It appears that, despite the Commission Recommendation on best enforcement practices (October 2003), EU Member States will not manage to reach the common objective of halving the number of people killed on the roads in 2010. Currently, the risk of being killed on the roads is nearly five times higher in some Member States than in others. Countries which apply good enforcement practices generally have a better road safety record than countries which do not apply such practices.

Automated devices have proven to be an important element in improving enforcement and it is important to facilitate their operation. With respect to speeding, for instance, countries that use large numbers of automated speed devices, such as the Netherlands and the UK, tend to have low numbers of road fatalities (46 and 56 per million inhabitants respectively), whereas countries with few if any such devices, e.g. Poland and the Czech Republic, generally have much higher death rates (143 and 126 per million inhabitants respectively). (The numbers are for the year 2005). Similarly, for drink-driving, countries that carry out many tests for drink-driving tend to have better road safety records than countries carrying out fewer tests.

However, since under the subsidiarity principle the application of enforcement practices by Member States in their own territory is considered to be primarily within their competence, the proposal does not seek to impose requirements for road safety enforcement methods as such. The proposal focuses on enabling cross-border enforcement, which Member States have been unable to achieve through unilateral or bilateral activity to date. The admittedly incomplete set of available data shows that considerable numbers of offences are committed, but remain unsanctioned, thereby

undermining the effectiveness and credibility of automated enforcement.

Without the application of automated speed enforcement and efficient follow-up procedures, adequate cross-border enforcement of the large numbers of speeding offences that take place will not be possible. The same applies to cross-border enforcement of drink-driving offences without the application of random breath testing.

As revealed in the Impact Assessment, it is expected that the implementation of the proposed provisions on cross-border enforcement will also result in the application by Member States of effective practices for the enforcement on their territory of purely national offences.

With respect to cross-border enforcement, existing bilateral and other intergovernmental initiatives by Member States are not optimally effective and result in insufficient application of national laws and in administrative and financial inefficiency. Although some of these agreements result in improved cross-border enforcement between the countries concerned (notably the Dutch – German and the Dutch – Belgian agreements), others have very little added value. The result is less-than-optimal road safety in all Member States and unequal treatment between non-resident offenders who are not sanctioned and national offenders who are. The proposal aims at setting up an EU-wide system for cross-border enforcement which solves the problems inherent in the existing agreements and avoids the further development of a patchwork of different bilateral or other intergovernmental agreements which would be time and resource consuming and, ultimately, less effective.

Moreover, there is still room for improvement in road safety performance within all Member States; dramatically in the Member States that currently have a bad road safety record, but also in Member States that are already performing well. Failure to take the proposed measures, would be deleterious to the interest that all Member States have in reducing wherever possible the number of people dying on their roads.

Effective enforcement methods can, if applied by all Member States, significantly contribute to halving the number of crashes on the roads/serious road accidents. The Impact Assessment study found that up to 5 000 lives could be saved every year by the application of such methods.

Community action will better achieve the objectives of the proposal for the following reasons.

Only an EU instrument can bring about consistent and efficient EU-wide cross-border enforcement of road traffic offences, through the exchange of relevant information via an electronic system.

The proposal does not deal with harmonising road traffic rules, nor with harmonisation of penalties for road traffic offences, since these matters are best left to the Member States. 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. Member States have different laws for instance with respect to the liability

concerning speeding offences: in a number of Member States the holder of the vehicle registration certificate is liable, in other Member States it is the driver. Member States should make every effort to ensure that drivers from other Member States who are driving on their territory are aware of the major road traffic rules in force, such as speed – and alcohol limits.

The offence notification which has to be sent to the holder of the vehicle registration certificate requests this holder to give details concerning the driver of the vehicle when the offence was detected if the holder does not accept to pay the penalty. If it appears from the answer of the holder of the vehicle registration certificate that the offence had been committed by a driver other than the holder, it is left to the State of offence to decide whether or not to subsequently pursue the driver.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reasons.

The form of a directive is the simplest form possible for achieving the objectives of the proposal.

The proposal deals only with enforcement with respect to road traffic offences, and not with harmonising road traffic rules, criminal procedure or sanctions, since this is not necessary for achieving the required results. The proposal does not deal with cases where the addressee has refused to pay a financial penalty but is convicted to do so in a final decision, since Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties provides for mutual recognition and execution of such final decisions.

As shown in the Impact Assessment, the financial and administrative burden of this proposal is very limited. Moreover, an already existing EU information system will be used and expanded for the purpose of exchanging information for cross-border enforcement. This will also reduce costs.

- **Choice of instruments**

Proposed instrument: directive.

Other means would not be adequate for the following reasons.

The existing Commission Recommendation has proved not to be sufficient for achieving the objective. The same applies, but even more so, to co-regulation and self-regulation. A regulation would be unnecessarily prescriptive and would not necessarily fit within the existing bodies of national law.

4) BUDGETARY IMPLICATION

The proposal has budgetary implications for the setting up and the running of a Committee to manage the Directive.

5) ADDITIONAL INFORMATION

- **Simulation, pilot phase and transitory period**

The system for exchange of information will be developed and tested at the latest two years after the entry into force of the Directive.

- **Simplification**

The proposal provides for simplification of administrative procedures for public authorities (EU or national), e.g. by streamlining the exchange of information in a single protocol.

In order to effectively follow up very high numbers of road traffic offences, such as speeding, there is a need to establish simplified procedures to follow up these offences consistently with penalties. Currently, many Member States have not established such procedures, or the procedures they do have differ according to the existing bilateral or multilateral agreements. These Member States will be encouraged to introduce such procedures as a spin-off from the expected increase in the use of automated speed devices resulting from the proposed measures.

- **Correlation table**

Member States are required to communicate to the Commission the text of national provisions transposing the Directive as well as a table of correlation between those provisions and this Directive.

- **European Economic Area**

The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

2008/0062 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

facilitating cross-border enforcement in the field of road safety

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71(1)(c) thereof,

Having regard to the proposal from the Commission[4],

Having regard to the opinion of the European Economic and Social Committee[5],

Having regard to the opinion of the Committee of the Regions[6],

After consulting the European Data Protection Supervisor,

Acting in accordance with the procedure laid down in Article 251 of the Treaty[7],

Whereas:

(1) The European Union is pursuing a policy to improve road safety with the objective of reducing fatalities, injuries and material damage. Consistent enforcement of sanctions for road traffic offences which are known to considerably jeopardize road safety is an important instrument for achieving this objective.

(2) However, sanctions in the form of financial penalties for certain road traffic offences are often not enforced if they are committed with a vehicle which is registered in a Member State other than the Member State where the offence took place because of a lack of appropriate mechanisms.

(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.

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4 OJ C , , p. .
5 OJ C , , p. .
6 OJ C , , p. .
7 OJ C , , p. .

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

(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[8] applies.

(7) Further, the cross-border exchange of information should be carried out rapidly by electronic means. To this end, an EU electronic network should be set up.

(8) Since the data relating to the identification of an offender is personal, Member States must take the measures necessary to ensure that Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data[9] is complied with.

(9) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[10].

(10) In particular, power should be conferred on the Commission to adopt measures concerning the adaptation of the Annex. Since those measures are of general scope and are designed to amend non-essential elements of this Directive, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(11) Since the objectives of the action to be taken, namely facilitating the cross-border enforcement of sanctions for certain road traffic offences, cannot be sufficiently achieved by the Member States themselves and can therefore, by reason of their scale

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8 OJ L 76, 22.3.2005, p. 16.

9 OJ L 281, 23.11.1995, p.31

10 OJ L 184, 17.7.1999, p.23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

and effects, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity enshrined in Article 5 of the Treaty. In accordance with the principle of proportionality set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1
Subject matter and scope

1. This Directive establishes a system to facilitate the cross-border enforcement of sanctions for the following road traffic offences:

(a) speeding;

(b) drink-driving;

(c) non-use of a seat-belt;

(d) failing to stop at a red traffic light.

2. This Directive only applies insofar as the sanction to be imposed for the offence concerned is or includes a financial penalty.

Article 2
Definitions

For the purpose of this Directive the following definitions shall apply:

(a) "holder" means the holder of the registration certificate of the vehicle concerned;

(b) "State of offence" means the Member State where the offence has been committed;

(c) "State of residence" means the Member State where the vehicle with which the offence has been committed is registered;

(d) "competent authority" means the authority in charge of the national database on the registration documents for vehicles.

(e) "speeding" means exceeding speed limits in force in the State of offence for the road or type of vehicle concerned;

(f) "drink-driving" means driving with a blood alcohol level higher than the maximum level in force in the State of offence;

(g) "non-use of a seat belt" means failing to comply with the requirement to wear a seat-belt or use a child restraint in cases where the use of such equipment is mandatory in accordance with Council Directive 91/671/EEC[11] or the national law in the State of offence;

(h) "failing to stop at a red traffic light" means the offence of driving through a red traffic light as it is defined in the law of the State of offence.

CHAPTER II

PROVISIONS FACILITATING CROSS-BORDER ENFORCEMENT

Article 3

Procedure for the exchange of information between Member States

1. When an offence has been committed in a Member State with a vehicle which is registered in another Member State, and the case is not sanctioned and closed immediately by an authority which is in charge of pursuing the offence in the State of offence, the competent authority in that State shall send the vehicle registration number and information concerning the place and date of the offence to the competent authority in the other Member States or the State of residence if this can be identified. It shall do so in the same circumstances and under the same conditions in which it would pursue that offence if committed with a vehicle registered in its own territory.

2. The competent authority in the State of residence shall transmit immediately the following information only to the competent authority in the State of offence:

(a) the make and model of the vehicle which has the registration number concerned;

(b) in cases where the holder of the registration certificate of the vehicle concerned is a natural person, the name, address, date and place of birth;

(c) in cases where the holder of the registration certificate of the vehicle concerned is a legal person, the name and address.

3. The competent authorities of the other Member States shall not store the information sent by the State of offence.

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[11] Council Directive 91/671/EEC of 16 December 1991 on the approximation of the laws of the Member States relating to compulsory use of safety belts in vehicles of less than 3,5 tonnes (OJ L 373, 31.12.1991, p. 26), as amended by Directive 2003/20/EC of the European Parliament and the Council (OJ L 115, 9.5.2003, p. 63).

Article 4

Use of an electronic network

1. Member States shall take all necessary measures to ensure that the exchange of information described in Article 3 is carried out by electronic means. For this purpose, Member States shall take all necessary measures to ensure that an EU electronic network based on common rules is set up no later than 12 months after the date mentioned in Article 9 (1).

2. Common rules concerning the implementation of paragraph 1 shall be adopted by the Commission by the date mentioned in Article 9(1) in accordance with the regulatory procedure provided for in Article 8(2).

These common rules shall include in particular provisions on the following:

(a) the format of the data exchanged;

(b) the technical procedures for electronic exchange of the data between Member States.

Article 5

Offence notification

1. Upon receipt of the information described in Article 3(2), the authority in the State of offence which is in charge of pursuing the offences covered by this Directive shall send an offence notification to the holder. The notification shall be established on the basis of the model set out in the Annex.

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 dispute or appeal.

3. The offence notification shall inform the holder that he must complete a reply form if he does not intend to pay the penalty.

4. The offence notification shall be communicated to the holder in the official language or languages of the State of residence, as specified by this State.

5. The Commission may adapt the model offence notification in order to take account of technical developments. Those measures designed to amend non-essential elements of this Directive shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 8(3).

Article 6

Central authorities

1. Each Member State shall designate a central authority to assist with the application of this Directive.

2. Each Member State shall communicate to the Commission within six months of the entry into force of this Directive the names and addresses of the central authorities designated pursuant to this Article.

3. The Commission shall communicate the information described in paragraph 2 to the other Member States.

Article 7
Right of access, correction and deletion

1. Without prejudice to the right of data subjects under national legislation pursuant to Article 12(a) of Directive 95/46/EC, any person shall have the right to obtain communication of their personal data recorded in the State of residence which was transmitted to the requesting Member State.

2. Without prejudice to the observance of the procedural requirements for appeal and the redress mechanisms of the Member State concerned, any person concerned shall have the right to obtain the correction of any inaccurate personal data or the deletion of any data recorded unlawfully without delay.

3. Data subjects can exercise the rights mentioned in paragraph 2 before the central authority of their country of residence.

CHAPTER III

COMMITTEE PROCEDURE

Article 8
Committee

1. The Commission shall be assisted by a Committee on road safety enforcement

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

CHAPTER IV

FINAL PROVISIONS

Article 9
Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive at the latest twelve months after its entry into force. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

   When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 10

This Directive shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Article 11

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

ANNEX
FORM for the offence notification

referred to in Article 5

[COVERPAGE]

[Name, address and telephone number of sender] [Name and address of addressee]

NOTIFICATION

of a traffic offence committed in ..... [name of Member State where the offence has been committed]

[the above text appears on this coverpage in all the official EU languages]

Page 2

On [date .....] a traffic offence committed with the vehicle with registration number ....., make ....., model ..... was detected by .....[name of the the responsible body].

You are registered as the holder of the registration certificate of the abovementioned vehicle.

The relevant details of the offence are described on page 3 below.

The amount of the financial penalty due for this offence is .....€ / national currency.

Deadline for the payment is .....

If you do not pay this financial penalty, you are obliged to complete the attached reply form (page 4) and send it to the address shown.

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page 3

Relevant details concerning the offence

(a) Data concerning the vehicle with which the offence has been committed:

Registration number:

Country of registration:

Make and model:

(b) Data concerning the offence

Place, date and time where it occurred:

Nature and legal classification of the offence:

speeding, drink-driving, non-use of seatbelt or child restraint system, failing to stop at a red traffic light[12]

Detailed description of the offence:

Reference to the relevant legal provision(s):

Description of or reference to the evidence for the offence:

(c) Data concerning the device that has been used for detecting the offence[13]

Type of device for detection of speeding, drink-driving, failing to stop at a red traffic light or non-use of seat belt[14]:

Specification of the device:

Identification number of the device:

Expiry date for the last gauging:

(d) The result of the application of the device:

[example for speeding; other offences to be added:]

The maximum speed:

The measured speed:

The measured speed corrected for margin of error:

---

12 Delete what is not applicable.

13 Not applicable if no device has been used.

14 Delete what is not applicable.

Reply form

(please complete using block capitals and mark the applicable option)

A. Identity of the driver:

- Name and first name:

- Place and date of birth:

- Number of driving licence:...delivered (date):...and at (place):

- Address:

B. List of questions:

(1) Is the vehicle, make... registration number...registered in your name? yes/no

If not, the holder of the registration certificate is:

(name, first name, address)

(2) Do you acknowledge that you committed the offence?
yes/no

(3) If you do not acknowledge this, please explain why:

Please send the completed form ***within 60 days from the date of this notification*** to the following authority:

at the following address:

INFORMATION

This case will be examined by the competent authority in the State where the offence has been committed.
If this case is not pursued, you will be informed within 60 days after receipt of the reply form.

If this case is pursued, the following procedure applies:

[to be filled in by the State of offence - what the further procedure will be, including details of the possibility and procedure of appeal against the decision to pursue the case. These details shall in any event include: Name and address of the authority in charge of pursuing the case; deadline for payment; name and address of the body of appeal concerned; deadline for appeal].

LEGISLATIVE FINANCIAL STATEMENT

1. NAME OF THE PROPOSAL:

Proposal for a Directive of the European Parliament and of the Council facilitating cross-border enforcement in the field of road safety

2. ABM / ABB FRAMEWORK

Policy Area(s) concerned and associated Activity/Activities:

Land Transport – Road safety

3. BUDGET LINES

3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex- B..A lines)) including headings:

3.2. Duration of the action and of the financial impact:

Unlimited duration

3.3. Budgetary characteristics :

Budget line	Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective

4. SUMMARY OF RESOURCES

4.1. Financial Resources

4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

EUR million (to 3 decimal places)

Expenditure type	Section no.		Year 2012	2013	2014	2015	2016	2017 and later	Total
Operational expenditure[15]									
Commitment Appropriations (CA)	8.1.	a							
Payment Appropriations (PA)		b							
Administrative expenditure within reference amount[16]									
Technical & administrative assistance (NDA)	8.2.4.	c							
TOTAL REFERENCE AMOUNT									
Commitment Appropriations		a+c							
Payment Appropriations		b+c							
Administrative expenditure <u>not</u> included in reference amount[17]									
Human resources and associated expenditure (NDA)	8.2.5.	d	0,0585	0,0585	0,0585	0,0585	0,0585	0,0585	
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6.	e	0,0351	0,0351	0,0351	0,0351	0,0351	0,0351	
Total indicative financial cost of intervention									
TOTAL CA including cost of Human Resources		a+c +d +e	0,0936	0,0936	0,0936	0,0936	0,0936	0,0936	
TOTAL PA including cost of Human Resources		b+c +d +e	0,0936	0,0936	0,0936	0,0936	0,0936	0,0936	

15 Expenditure that does not fall under Chapter xx 01 of the Title xx concerned.

16 Expenditure within article xx 01 04 of Title xx.

17 Expenditure within chapter xx 01 other than articles xx 01 04 or xx 01 05.

Co-financing details

If the proposal involves co-financing by Member States, or other bodies (please specify which), an estimate of the level of this co-financing should be indicated in the table below (additional lines may be added if different bodies are foreseen for the provision of the co-financing):

EUR million (to 3 decimal places)

Co-financing body		Year 2012	2013	2014	2015	2016	2017 and later	Total
NO	f							
TOTAL CA including co-financing	a+c +d +e +f	0,0936	0,0936	0,0936	0,0936	0,0936	0,0936	

4.1.2. Compatibility with Financial Programming

X Proposal is compatible with existing financial programming.

☐ Proposal will entail reprogramming of the relevant heading in the financial perspective.

☐ Proposal may require application of the provisions of the Interinstitutional Agreement[18] (i.e. flexibility instrument or revision of the financial perspective).

4.1.3. Financial impact on Revenue

X Proposal has no financial implications on revenue

☐ Proposal has financial impact – the effect on revenue is as follows:

EUR million (to one decimal place)

		Prior to action	Situation following action					
Budget line	Revenue	[Year n-1]	[Year n]	[n+1]	[n+2]	[n+3]	[n+4]	[n+5][19]
	a) Revenue in absolute terms							
	b) Change in revenue	*Δ*						

[18] See points 19 and 24 of the Interinstitutional agreement.

[19] Additional columns should be added if necessary i.e. if the duration of the action exceeds 6 years

4.2. Human Resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.

Annual requirements	Year 2012	2013	2014	2015	2016	2017 and later
Total number of human resources	0,5	0,5	0,5	0,5	0,5	0,5

5. CHARACTERISTICS AND OBJECTIVES

5.1. Need to be met in the short or long term

A Committee shall assist the Commission in several tasks described in the Directive, namely: the adoption of common rules for an EU electronic network for the exchange of information, adapting the Annex containing a model for an offence notification destined for the holder of a vehicle with which a traffic offence has been committed.

5.2. Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy

With a view to improving road safety throughout the European Union and to ensuring equal treatment between resident and non-resident offenders, the proposal aims at establishing a system to facilitate the cross-border enforcement of sanctions for certain road traffic offences. Whereas this proposal deals with the phases from recording the offence until the sending of an offence notification to the holder of the registration certificate of the vehicle, the Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties[20] applies once a final decision has been taken.

5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

Objective: contribute to minus 50% road deaths in the EU in 2010 and after. The results of the Directive will be monitored. Expected result: decrease of road traffic offences, in particular those committed by non-resident offenders but also offences committed by resident offenders, as a general effect of drivers becoming aware that such offences do not remain without sanctions.

[20] Dated 24 February 2005 (OJ L 76, 22.3.2005, p. 16).

5.4. Method of Implementation (indicative)

☐ ***Centralised Management***

- ☐ directly by the Commission
- ☐ indirectly by delegation to:
  - ☐ executive Agencies
  - ☐ bodies set up by the Communities as referred to in art. 185 of the Financial Regulation
  - ☐ national public-sector bodies/bodies with public-service mission

X ***Shared or decentralised management***

- **X** with Member states
- ☐ with Third countries

☐ ***Joint management with international organisations (please specify)***

Relevant comments:

6. MONITORING AND EVALUATION

6.1. Monitoring system

The Committee will be managed and chaired by the relevant Commission officials. Therefore, the evolution and the progresses of the Committee will be constantly monitored.

6.2. Evaluation

6.2.1. Ex-ante evaluation

An Impact Assessment Report concerning the draft Directive has been established and the Impact Assessment Board has been consulted on it.

6.2.2. Measures taken following an intermediate/ex-post evaluation (lessons learned from similar experiences in the past)

6.2.3. Terms and frequency of future evaluation

The Committee will meet twice per year

7. ANTI-FRAUD MEASURES

The Committee will be managed and chaired by the relevant Commission officials. Therefore, the evolution and the progresses of the Committee will be constantly monitored.

8. DETAILS OF RESOURCES

8.1. Objectives of the proposal in terms of their financial cost:

NA

Commitment appropriations in EUR million (to 3 decimal places)

(Headings of Objectives, actions and outputs should be provided)	Type of output	Av. cost	Year n		Year n+1		Year n+2		Year n+3		Year n+4		Year n+5 and later		TOTAL	
			No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost
OPERATIONAL OBJECTIVE No.1 [21]																
Action 1……..																
- Output 1																
- Output 2																
Action 2……..																
- Output 1																
Sub-total Objective 1																

[21] As described under Section 5.3.

OPERATIONAL OBJECTIVE No.2 [1] ……																
Action 1……..																
- Output 1																
Sub-total Objective 2																
OPERATIONAL OBJECTIVE No.n [1]																
Sub-total Objective n																
TOTAL COST																

8.2. Administrative Expenditure

8.2.1. Number and type of human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources (**number of posts/FTEs**)					
		Year 2012	Year 2013	Year 2014	Year 2015	Year 2016	Year 2017
Officials or temporary staff[22] (XX 01 01)	A*/AD	0,5	0,5	0,5	0,5	0,5	0,5
	B*, C*/AST						
Staff financed[23] by art. XX 01 02							
Other staff[24] financed by art. XX 01 04/05							
TOTAL		0,5	0,5	0,5	0,5	0,5	0,5

8.2.2. Description of tasks deriving from the action

Management of the Committee

A Committee shall assist the Commission in several tasks described in the Directive, namely: the adoption of common rules for an EU electronic network for the exchange of information, adapting the Annex containing a model for an offence notification destined for the holder of a vehicle with which a traffic offence has been committed.

8.2.3. Sources of human resources (statutory)

☐ Posts currently allocated to the management of the programme to be replaced or extended

☐ Posts pre-allocated within the APS/PDB exercise for year n

☒ Posts to be requested in the relevant next APS/PDB procedure

☐ Posts to be redeployed using existing resources within the managing service (internal redeployment)

☐ Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

22 Cost of which is NOT covered by the reference amount.
23 Cost of which is NOT covered by the reference amount.
24 Cost of which is included within the reference amount.

8.2.4. Other Administrative expenditure included in reference amount (XX 01 04/05 – Expenditure on administrative management)

EUR million (to 3 decimal places)

Budget line (number and heading)	Year 2012	Year 2013	Year 2014	Year 2015	Year 2016	Year 2017 and later	TOTAL
1 Technical and administrative assistance (including related staff costs)							
Executive agencies[25]							
Other technical and administrative assistance							
- *intra muros*							
- *extra muros*							
Total Technical and administrative assistance							

8.2.5. Financial cost of human resources and associated costs not included in the reference amount

EUR million (to 3 decimal places)

Type of human resources	Year 2012	Year 2013	Year 2014	Year 2015	Year 2016	Year 2017 and later
Officials and temporary staff (XX 01 01)	0,0585	0,0585	0,0585	0,0585	0,0585	0,0585
Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.) (specify budget line)						
Total cost of Human Resources and associated costs (NOT in reference amount)	0,0585	0,0585	0,0585	0,0585	0,0585	0,0585

[25] Reference should be made to the specific legislative financial statement for the Executive Agency(ies) concerned.

Calculation– ***Officials and Temporary agents***

0,5 agent x 117000 EUR : 58500 EUR (0,0585 EUR million) per year

Calculation– ***Staff financed under art. XX 01 02***

Not applicable

8.2.6. Other administrative expenditure not included in reference amount

EUR million (to 3 decimal places)

	Year 2012	Year 2013	Year 2014	Year 2015	Year 2016	Year 2017 and later	TOTAL
XX 01 02 11 01 – Missions							
XX 01 02 11 02 – Meetings & Conferences							
XX 01 02 11 03 – Committees[26]	0,0351	0,0351	0,0351	0,0351	0,0351	0,0351	
XX 01 02 11 04 – Studies & consultations							
XX 01 02 11 05 - Information systems							
2 Total Other Management Expenditure (XX 01 02 11)							
3 Other expenditure of an administrative nature (specify including reference to budget line)							
Total Administrative expenditure, other than human resources and associated costs (NOT included in reference amount)	0,0351	0,0351	0,0351	0,0351	0,0351	0,0351	

The needs for human and administrative resources have to be covered within the current resources or within the allocation that can be granted to the managing DG in the framework of the annual allocation procedure in the light of budgetary constraints

[26] Committee under the Council Decision 2006/512/EC (comitology). The amount (0,0351 EUR million) is calculated : 650 EUR per expert x 27 Member States x 2 meetings a year.

DG Budget takes note of the statement that "an already existing EU information system will be used and expanded for the purpose of exchanging information for cross-border enforcement" and derives from it that a possible need to modify the existing system will be financed from the budget line from which the original development of the system has been financed.