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*****II**

RECOMMENDATION FOR SECOND READING

on the Council position at first reading with a view to the adoption of a directive of the European Parliament and of the Council facilitating the cross-border exchange of information on road safety related traffic offences (17506/1/2010 – C7-0074/2011 – 2008/0062(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

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the Council position at first reading with a view to the adoption of a directive of the European Parliament and of the Council facilitating the cross-border exchange of information on road safety related traffic offences (17506/1/2010 – C7-0074/2011 – 2008/0062(COD))

(Ordinary legislative procedure: second reading)

The European Parliament,

- having regard to the Council position at first reading (17506/1/2010 - C7-0074/2011),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2008)0151),
 - having regard to Article 294(7) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 66 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on Transport and Tourism (A7-0208/2011),
1. Adopts its position at second reading hereinafter set out;
 2. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive Recital 1

Council position

(1) The Union is pursuing a policy to improve road safety with the objective of reducing fatalities, injuries and material damage. An important element of that policy is the consistent enforcement of sanctions for road traffic offences committed in the Union which considerably jeopardise road safety.

Amendment

(1) ***Improving road safety is a prime objective of the Union's transport policy.*** The Union is pursuing a policy to improve road safety with the objective of reducing fatalities, injuries and material damage. An important element of that policy is the consistent enforcement of sanctions for road traffic offences committed in the Union which considerably jeopardise road safety.

¹ OJ C 45E, 23.2.2010, p. 149.

Amendment 2

Council position Recital 2 a (new)

Council position

Amendment

(2a) The Council, at its meeting on 2 December 2010, concluded that controls and sanctions for breaches of road traffic rules remain one of the most effective means to reduce the number of accidents and victims on the roads, notably by their deterrence effect. The Council called also for consideration of the need for further strengthening of enforcement of road traffic rules by Member States, and where appropriate, at the Union level, and also invited the Commission to examine the possibility of harmonising traffic rules at Union level where appropriate. The Commission should propose in the future further measures on facilitating cross-border enforcement of road traffic infringements, in particular those related to serious traffic accidents.

Justification

This recital refers to the will of the Transport Council of 2 December to make further progress at the Union level on the harmonisation of traffic rules and on their enforcement.

Amendment 3

Council position Recital 2 b (new)

Council position

Amendment

(2b) Greater convergence of control measures between Member States should also be encouraged and the Commission should examine in this respect whether it is necessary to propose the harmonisation of technical equipment for road safety

controls.

Justification

Further convergence should be purchased in future legislative proposals on control and technical equipment.

Amendment 4

**Council position
Recital 2 c (new)**

Council position

Amendment

(2c) The awareness of EU citizens should be raised as regards the road safety traffic rules in force in different Member States and the implementation of this Directive, in particular through appropriate measures guaranteeing the provision of sufficient information on the consequences of not respecting the road safety traffic rules when travelling in another Member State.

Justification

The information of drivers is an important element of the deterrent effect of the Directive.

Amendment 5

**Council position
Recital 7**

Council position

Amendment

(7) Advantage should be taken of the fact that the European Vehicle and Driving Licence Information System (Eucaris) software application, which is mandatory for Member States under the Prüm Decisions as regards VRD, provides for expeditious, secure and confidential exchange of specific VRD between Member States. That software application should therefore be the basis for the data

(7) Existing software applications should be the basis for the data exchange under this Directive and should, at the same time, also facilitate the reporting by Member States to the Commission. Such applications should provide for expeditious, secure and confidential exchange of specific VRD between Member States. Advantage should be taken of the European Vehicle and Driving

exchange under this Directive and should, at the same time, also facilitate the reporting by Member States to the Commission.

Licence Information System (Eucaris) software application, which is mandatory for Member States under the Prüm Decisions as regards VRD. ***The Commission should assess in a report the functioning of the software applications used for the purposes of this Directive.***

Justification

The EUCARIS is for the moment the only existing system which provides a cost efficient solution for the implementation of the Directive. An assessment of its functionalities should however be made for possible future adaptations of this application.

Amendment 6

Council position Recital 8

Council position

(8) The scope of ***Eucaris is*** limited to the processes used in the exchange of information between the national contact points in the Member States. Procedures and automated processes, in which the information is to be used, are outside the scope of ***Eucaris***.

Amendment

(8) The scope of ***the above-mentioned software applications should be*** limited to the processes used in the exchange of information between the national contact points in the Member States. Procedures and automated processes, in which the information is to be used, are outside the scope of ***such applications***.

Justification

This recital should be adapted in line with the Article on the software applications.

Amendment 7

Council position Recital 10

Council position

(10) Member States should be able to contact the owner, the holder of the vehicle or the otherwise identified person suspected of committing the road safety related traffic offence in order to keep him

Amendment

(10) Member States should be able to contact the owner, the holder of the vehicle or the otherwise identified person suspected of committing the road safety related traffic offence in order to keep him

informed of the applicable procedures and the legal consequences under the law of the Member State of the offence. In doing so, Member States should consider sending the information concerning road safety related traffic offences in the language of the registration documents or the language most likely to be understood by the person concerned, to ensure that that person has a clear understanding of the information which is being shared with him. This will allow that person to respond to the information in an appropriate way, in particular by asking for more information, settling the fine or by exercising their rights of defence, in particular in the case of mistaken identity. Further proceedings are covered by applicable legal instruments, including instruments on mutual assistance and on mutual recognition.

informed of the applicable procedures and the legal consequences under the law of the Member State of the offence. In doing so, Member States should consider sending the information concerning road safety related traffic offences in the language of the registration documents or the language most likely to be understood by the person concerned, to ensure that that person has a clear understanding of the information which is being shared with him. ***That information should be sent using a procedure that ensures confirmation of receipt by the person concerned only, and not by a third party (a form of registered delivery), in order to protect confidentiality and be certain that the person concerned has indeed received it.*** This will allow that person to respond to the information in an appropriate way, in particular by asking for more information, settling the fine or by exercising their rights of defence, in particular in the case of mistaken identity. Further proceedings are covered by applicable legal instruments, including instruments on mutual assistance and on mutual recognition, ***in particular Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties.***¹

¹ OJ L 76, 22.3.2005, p. 16

Justification

The reference to the Framework decision 2005/214/JHA, which was mentioned in the first reading of the Parliament, should be reinserted in order to clarify the mention of mutual recognition made by the Council. To ensure confidentiality and that the right person does indeed receive the information, the Member State of the offence should send the information with confirmation of receipt by the person concerned only (form of registered delivery).

Amendment 8

Council position Recital 11a (new)

Council position

Amendment

(11a) With a view to pursuing a road safety policy aiming for a high level of protection for all road users in the Union and taking into account the widely differing circumstances within the Union, Member States should act, without prejudice to more restrictive policies and laws, in order to ensure greater convergence of road traffic rules and of their enforcement between Member States. Such harmonisation should aim to create comparable methods, practices and minimum standards at Union level.

Justification

This amendment reintroduces the first reading of the Parliament on the need for further harmonisation of road safety policies.

Amendment 9

Council position Recital 11 b new

Council position

Amendment

(11b) The Commission should examine the need for common criteria for follow-up procedures by the Member States in the event of non-payment of a financial penalty, in accordance with Member States' laws and procedures. Such criteria should focus in particular on the transmission of the final decision to impose a sanction/ financial penalty between the different competent authorities of the Member States of the offence and the Member States of registration, the recognition and the enforcement of the final decision and the

information of the respective authorities on the decision of enforcement or non-enforcement of the decision.

Justification

This amendment reintroduces elements of the first reading of the Parliament on the need for further harmonisation of enforcement procedures. Such harmonisation should be proposed by the Commission at a later stage.

Amendment 10

Council position

Recital 12

Council position

(12) Closer cooperation between law enforcement authorities should go hand in hand with respect for fundamental rights, in particular the right to respect for privacy and to protection of personal data, ***to be*** guaranteed by special data protection arrangements which ***should*** take particular account of the specific nature of cross-border online access to databases. ***Such requirements are satisfied by the Prüm Decisions.***

Amendment

(12) Closer cooperation between law enforcement authorities should go hand in hand with respect for fundamental rights, in particular the right to respect for privacy and to protection of personal data, guaranteed by special data protection arrangements which take particular account of the specific nature of cross-border online access to databases. ***It is desirable that the software applications to be set up enable the exchange of information to be carried out in secure conditions and ensure the confidentiality of the data transmitted. Apart from the temporary nature of their storage, data collected under this Directive should not, under any circumstances, be used for purposes other than those of this Directive. Member States should respect the obligations on the conditions of use and of storage of the data. The processing of personal data and the management of the software applications should prevent any data collected from being used for purposes other than those specifically related to road safety.***

Justification

This amendment reintroduces the first reading of the Parliament on the protection of personal

data. Fundamental rights must be respected and personal data protected.

Amendment 11

Proposal for a directive Recital 12 a (new)

Council position

Amendment

(12a) Since the data relating to the identification of an offender is personal, Member States must take the measures necessary to ensure that the Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters¹ is complied with. The owner, the holder of the vehicle or the otherwise identified person suspected of committing the road safety related traffic offence should be informed accordingly, when notified of the offence, of his or her rights regarding access to, rectification of and deletion of data and of the maximum legal period for which the data can be kept.

¹ OJ 350, 30.12.2008, p.60.

Justification

This amendment reintroduces the first reading of the Parliament on the protection of personal data.

Amendment 12

Proposal for a directive Recital 12 b (new)

Council position

Amendment

(12b) Apart from the temporary nature of their storage, data collected under this Directive should not, under any circumstances, be used for purposes

beyond what is required in order to follow up on road safety offences. The Commission and the Member States should accordingly ensure that the processing of personal data and the management of the software applications used will serve to prevent any data collected from being used for purposes other than those specifically related to road safety.

Justification

This amendment reintroduces the first reading of the Parliament on the protection of personal data.

Amendment 13

**Council position
Recital 14**

Council position

(14) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, as referred to in Article 6 of the Treaty on European Union.

Amendment

(14) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, as referred to in Article 6 of the Treaty on European Union. ***The person suspected of committing a road safety related traffic offence should be informed accordingly, when having received the information letter, of his or her rights regarding access to, rectification of and deletion of data and of the maximum legal period for which the data can be kept.***

Justification

This amendment reintroduces the first reading of the Parliament on the protection of personal data.

Amendment 14

Council position

Recital 15

Council position

(15) In accordance with Articles 1 and 2 of the Protocol (No 21) on the Position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Directive and are not bound by it or subject to its application.

Amendment

(15) In accordance with Articles 1 and 2 of the Protocol (No 21) on the Position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Directive and are not bound by it or subject to its application. ***In order to ensure that this Directive has uniform coverage and that there is fair and equal treatment of EU drivers with regard to its implementation, those Member States are invited to reconsider their position and examine whether they could participate in the application of this Directive through a future opt-in in accordance with Article 4 of Protocol 21.***

Justification

The choice not to opt-in by two countries limits the geographical coverage of the Directive and reduces the fair treatment of European citizens. The future participation of Ireland and of the United Kingdom should be envisaged.

Amendment 15

Council position

Recital 16 a (new)

Council position

Amendment

(16a) In order to achieve the objective of exchange of information between Member States through interoperable means, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European

Union should be delegated to the Commission in respect of setting out the requirements for data research in an annex to this Directive. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

Justification

This amendment refers to the procedure of delegated acts to modify the Annex on the technical requirements.

Amendment 16

Council position

Article 4 – paragraph 1 – subparagraph 2

Council position

The data elements referred to in points (a) and (b) which are necessary to conduct the search shall be in compliance with the requirements set out in ***Point 1.2.2 of Chapter 3 of the Annex to Decision 2008/616/JHA.***

Amendment

The data elements referred to in points (a) and (b) which are necessary to conduct the search shall be in compliance with the requirements set out in ***Annex Ia. That Annex may be modified in accordance with the procedure referred to in Article 8a.***

Justification

It is more appropriate to insert the technical requirements in an annex to the Directive than to have a reference to the Framework decision 2008/616/JHA on the Prüm Convention, which offers fewer guarantees on its implementation than a Directive. This new annex should be modifiable through delegated acts, as it would contain non-essential elements.

Amendment 17

Council position

Article 4 – paragraph 2 – subparagraph 2

Council position

Searches shall be conducted in compliance with the procedures as described in Chapter 3 of the Annex to Decision 2008/616/JHA.

Amendment

Searches shall be conducted in compliance with the procedures as described in Chapter 3 of the Annex to Decision 2008/616/JHA, **except for point 1 of Chapter 3 of the Annex to Decision 2008/616/JHA, for which the procedures set out in Annex Ia to this Directive shall apply.**

Justification

This amendment is in line with the previous amendment introducing a new annex.

Amendment 18

Proposal for a directive

Article 4 – paragraph 2 – subparagraph 3

Council position

The Member State of the offence shall, under this Directive, use the data obtained in order to establish who is **personally** liable for road safety related traffic offences referred to in Articles 2 and 3.

Amendment

The Member State of the offence shall, under this Directive, use the data obtained in order to establish who is liable **under national law** for road safety related traffic offences referred to in Articles 2 and 3.

Justification

This amendment is necessary to ensure that the owner/ holder of the vehicle can be made liable for the road safety related traffic offenses referred to in article 2 and 3. Therefore this amendment brings article 4, paragraph 2 in line with the proposed Template for the information letter in the Council Position and the proposed Annex 1a of the Rapporteur.

Amendment 19

Council position

Article 4 – paragraph 3

Council position

3. For the purposes of the supply of data as referred to in paragraph 1, each Member State shall designate a national contact point **for incoming requests**. The powers of the national contact points shall be governed by the applicable law of the Member State concerned.

Amendment

3. For the purposes of the supply of data as referred to in paragraph 1, each Member State shall designate a national contact point. The powers of the national contact points shall be governed by the applicable law of the Member State concerned.

Justification

This amendment is in line with the previous amendment introducing a new annex.

Amendment 20

Council position

Article 4 – paragraph 4

Council position

4. Member States shall take all necessary measures to ensure that the exchange of information is carried out by interoperable electronic means **and to** ensure that this exchange of information is conducted in a cost efficient and secure manner, as far as possible using existing software applications such as the one especially designed for the purposes of Article 12 of Decision 2008/615/JHA, and amended versions of **that** software.

Amendment

4. Member States shall take all necessary measures to ensure that the exchange of information is carried out by interoperable electronic means **without exchange of data involving other databases**. **Member States shall** ensure that this exchange of information is conducted in a cost efficient and secure manner **guaranteeing the confidentiality of the data transmitted**, as far as possible using existing software applications such as the one especially designed for the purposes of Article 12 of Decision 2008/615/JHA, and amended versions of **those** software **applications, in compliance with the arrangements referred to in Annex Ia to this Directive and in points 2 and 3 of Chapter 3 of the Annex to Decision 2008/616/JHA. The amended versions of the software applications shall provide for both online real-time exchange mode and batch**

exchange mode, the latter allowing for the exchange of multiple requests or responses within one message.

Justification

This amendment is in line with the previous amendment introducing a new annex and reintroduces elements from the first reading of the Parliament on the protection of personal data and from the opinion of the European Data Protection Supervisor on the proposal.

Amendment 21

Council position

Article 5 – paragraph 1

Council position

1. Where the Member State of the offence **decides** to initiate follow-up proceedings in relation to the road safety related traffic offences referred to in Article 2, **it informs**, in accordance with its law, the owner, the holder of the vehicle or the otherwise identified person suspected of committing the road safety related traffic offence of the legal consequences thereof within the territory of the Member State of the offence under the law of that Member State.

Amendment

1. Where the Member State of the offence **shall decide whether** to initiate follow-up proceedings in relation to the road safety related traffic offences referred to in Article 2 **or not. In the event that the Member State decides to initiate such proceedings, it shall inform, with confirmation of receipt and on a strictly confidential basis**, in accordance with its law **and this Directive**, the owner, the holder of the vehicle or the otherwise identified person suspected of committing the road safety related traffic offence of the legal consequences thereof within the territory of the Member State of the offence under the law of that Member State.

Justification

This amendment aims to clarify this provision, as the Member States have their full capacity to initiative follow-up proceedings or not. But the information of the identified person has to be mandatory as soon as follow-up proceedings have been decided. To ensure confidentiality and that the right person does indeed receive the information, the Member State of the offence should send the information with confirmation of receipt by the person concerned only. Moreover, the importance of abiding by the terms of the data communication directive should be reiterated.

Amendment 22

Proposal for a directive
Article 5 – paragraph 2 – subparagraph 1

Council position

When sending the information letter to the owner, the holder of the vehicle or the otherwise identified person suspected of committing the road safety related traffic offence, the Member State of the offence shall, in accordance with its law, include any relevant information **such as** the nature of the road safety related offence referred to in Article 2, the place, date and time of the offence **and**, where appropriate, data concerning the device used for detecting the offence.

Amendment

When sending, **with confirmation of receipt and on a strictly confidential basis**, the information letter to the owner, the holder of the vehicle or the otherwise identified person suspected of committing the road safety related traffic offence, the Member State of the offence shall, in accordance with its law **and with this Directive**, include any relevant information, **notably** the nature of the road safety related offence referred to in Article 2, the place, date and time of the offence, **texts of the national law infringed and the corresponding penalty as well as**, where appropriate, data concerning the device used for detecting the offence.

Justification

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

Amendment 23

Proposal for a directive
Article 5 – paragraph 2 – subparagraph 1 a (new)

Council position

Amendment

The owner, the holder of the vehicle or the otherwise identified person suspected of committing the road safety related traffic offence shall be notified by means of the information letter that his or her personal data shall be treated in accordance with the provisions of Council Framework Decision 2008/977/JHA and shall point out his or her rights as regards access, rectification and erasure, as referred to in Articles 17 and 18 of this Framework Decision.

Justification

This amendment reintroduces the first reading of the Parliament on the information letter.

Amendment 24

Council position Article 6

Council position

Member States shall send a report to the Commission by *fifty-four months* and every two years thereafter. The report shall indicate the number of automated searches conducted by the Member State of the offence addressed to the national contact point of the Member State of registration following offences committed on its territory, together with the number of failed requests *and* the nature of such requests.

Amendment

Member States shall send a report to the Commission by *twenty-four months* and every two years thereafter. The report shall indicate the number of automated searches conducted by the Member State of the offence addressed to the national contact point of the Member State of registration following offences committed on its territory, together with the *type of offences for which requests were addressed, the number of failed requests, the nature of such requests, the number of requests refused by the national contact point of the Member State of registration and the number of information letters sent by the Member State of the offence.*

Justification

The content of the reporting obligations should be completed in order to clarify the number of refusals, the type of offences and the number of information letters sent.

Amendment 25

Council position Article 7 – first paragraph

Council position

The provisions on data protection set out in the Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters shall apply to personal data processed under this

Amendment

The provisions on data protection set out in the Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters shall apply to personal data processed under this

Directive.

Directive. *They shall ensure that the data transmitted is treated confidentially and that the data subject is aware of his/her rights of access, rectification and deletion of his/her personal data and prevent any personal data gathered under this Directive from being used for purposes other than those specifically related to road safety. The competent authorities of the other Member States shall not store the information sent by the Member State of the offence. That information shall be sent solely for the purposes of this Directive, and, upon conclusion of proceedings, all data must be verifiably deleted. The Member State of registration shall record only the date and the competent authority of the Member State of the offence to whom the information was sent.*

Justification

This amendment reintroduces the first reading of the Parliament and aims to guarantee the right of the person identified: it forbids the storage of the data collected and limits their use to the purpose of this Directive and clarifies the use and recording of data by the Member State of registration and offence.

Amendment 26

Proposal for a directive Article 7 – paragraph 2 a (new)

Council position

Amendment

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

Justification

This amendment clarifies the use and recording of data by the Member State of registration and offence.

Amendment 27

Council position

Article 7 – paragraph 2 b (new)

Council position

Amendment

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 immediate deletion of any data recorded unlawfully.

Justification

This amendment reintroduces the first reading of the Parliament and aims to guarantee the right of the person identified to correct the personal data in the case where they would be inaccurate.

Amendment 28

Council position

Article 8 – paragraph 1 a (new)

Council position

Amendment

1a. Member States shall provide road users with the necessary information about the measures implementing this Directive in association with, among other organisations, road safety bodies, non-governmental organisations active in the field of road safety or automobile clubs. In particular, Member States shall ensure that the rules on speed limits are displayed on signs erected on every motorway crossing their borders.

Justification

This amendment reintroduces the first reading of the Parliament. It reinforces the obligation to inform the drivers about the implementation of the Directive and about the different traffic rules in Europe concerning speed limits.

Amendment 29

Council position

Article 8 a (new)

Council position

Amendment

Article 8a

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 8b concerning the modification of Annex Ia setting out the requirements to be respected when conducting automated searches, in accordance with Article 4(1).

Justification

This new article inserts the procedure of delegated act for the modification of the annex containing the technical requirements.

Amendment 30

Council position

Article 8 b (new)

Council position

Amendment

Article 8b

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.***
- 2. The delegation of power referred to in Article 4(1) shall be conferred on the Commission for a period of five years from the date of entry into force of this Directive.***
- 3. The delegation of power referred to in Article 4(1) may be revoked at any time by***

the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 4(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Justification

This new article inserts the procedure of delegated act for the modification of the annex containing the technical requirements to be respected for the exchange of data.

Amendment 31

Council position Article 9

Council position

By **sixty months** after the entry into force of this Directive the Commission shall submit a report to the European Parliament and the Council on the application of this Directive by the Member States, **assess** whether other road safety related traffic

Amendment

By **thirty-six months** after the entry into force of this Directive the Commission shall submit a report to the European Parliament and the Council on the application of this Directive by the Member States. **In its report, the**

offences should be added to *Article 2 and, if appropriate, make a proposal.*

Commission shall focus in particular on the following aspects and shall make proposals to cover those aspects:

- *The assessment of whether other road safety related traffic offences should be added to the scope of this Directive;*
- *The assessment of the effectiveness of this Directive on the reduction in the number of fatalities on Union roads, in particular whether its effectiveness is affected by the geographical coverage of this Directive;*
- *The assessment of the necessity to harmonise automatic checking equipment and procedures. In this context, the Commission is invited to develop at Union level road safety guidelines within the framework of the common transport policy in order to ensure greater convergence of the enforcement of road traffic rules by Member States through comparable methods and practices. These guidelines may cover at least the non-respect of speed limits, drink-driving, non-use of seat belts and failure to stop at a traffic red light. The Commission shall take into account the orientations for guidelines mentioned in Annex Ib Part I;*
- *The assessment of the need to strengthen the enforcement of road safety related traffic offences through their harmonised follow-up procedures in the case of non-payment of a financial penalty, within the framework of the common transport policy. The Commission shall take into account the criteria listed in Annex Ib Part II;*
- *The assessment of the possibility to harmonise traffic rules at Union level where appropriate;*
- *The assessment of the software applications as referred to in Article 4(4), with a view to ensuring proper implementation of this Directive as well as guaranteeing an effective, expeditious,*

secure and confidential exchange of specific VRD.

Justification

This article on the revision of the Directive should give a perspective to further progress in the field of road safety, especially on the harmonisation of enforcement procedures, of the controls to be made and of traffic rules.

Amendment 32

Proposal for a directive

Article 9 – paragraph 1 a (new)

Council position

Amendment

1a. In preparing the review of this Directive, the Commission shall consult all the relevant road-safety stakeholders, especially victims associations, road safety and law enforcement authorities (TISPOL), experts, etc.

Amendment 33

Council position

Article 10 – paragraph 1 – subparagraph 1

Council position

Amendment

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ***twenty-four months*** after the entry into force of this Directive. They shall forthwith communicate to the Commission the text of those provisions.

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

Justification

The time for transposition should be shortened, as it does not seem necessary to have two years to comply with the obligation to use the EUCARIS system, which is already in force.

Amendment 34

Council position Annex I a (new)

Council position

Amendment

Annex Ia

Data elements related to the search - referred to in Article 4

<i>Item</i>	<i>M/O</i> <i>1</i>	<i>Remarks</i>
<i>Data relating to the vehicle</i>	<i>M</i>	
<i>Member State of registration</i>	<i>M</i>	
<i>Licence number</i>	<i>M</i>	<i>(A²)</i>
<i>Data relating to the offence</i>	<i>M</i>	
<i>Member State of the offence</i>	<i>M</i>	
<i>Reference date of the offence</i>	<i>M</i>	
<i>Reference time of the offence</i>	<i>M</i>	
<i>Purpose of the search</i>	<i>M</i>	<i>Code indicating the type of offence as listed in Article 2 of the Directive</i> <i>1 = Speeding</i> <i>2 = Drink-driving</i> <i>3 = Non use of seat belt</i> <i>4 = Failing to stop at red traffic light</i> <i>5 = Use of forbidden lane</i> <i>10 = Driving under the influence of drugs</i> <i>11 = Failing to wear a safety helmet</i> <i>12 = Illegally using a mobile phone or any other communication devices while driving</i>

¹ M = mandatory when available in national register, O = optional.

² Harmonised document abbreviation, see Council Directive 1999/37/EC of 29.4.1999.

Data elements provided - referred to in Article 4

Part I. Data relating to vehicles

Item	M/O <i>1</i>	Remarks
Licence number	M	
Chassis number/VIN	M	
Country of registration	M	
Make	M	(D.1²) e.g. Ford, Opel, Renault, etc.
Commercial type of the vehicle	M	(D.3) e.g. Focus, Astra, Megane
EU Category Code	M	(J) mopeds, motorbikes, cars, etc.

Part II. Data relating to holders or owners of the vehicle

Item	M/O <i>3</i>	Remarks
Data relating to holders of the vehicle		(C.1⁴) The data refer to the holder of the specific registration certificate.
Registration holders' (company) name	M	(C.1.1.) separate fields shall be used for surname, infixes, titles, etc., and the name in printable format shall be communicated
First name	M	(C.1.2) separate fields for first name(s) and initials shall be used, and the name in printable format shall be communicated

¹ M = mandatory when available in national register, O = optional.

² Harmonised document abbreviation, see Council Directive 1999/37/EC of 29.4.1999.

² Harmonised document abbreviation, see Council Directive 1999/37/EC of 29.4.1999.

³ M = mandatory when available in national register, O = optional.

² Harmonised document abbreviation, see Council Directive 1999/37/EC of 29.4.1999.

⁴ Harmonised document abbreviation, see Council Directive 1999/37/EC of 29.4.1999.

<i>Address</i>	<i>M</i>	<i>(C.1.3)</i> <i>separate fields shall be used for Street, House number and Annex, Post code, Place of residence, Country of residence, etc., and the Address in printable format shall be communicated</i>
<i>Gender</i>	<i>O</i>	<i>Male, female</i>
<i>Date of birth</i>	<i>M</i>	
<i>Legal entity</i>	<i>M</i>	<i>individual, association, company, firm, etc.</i>
<i>Place of Birth</i>	<i>O</i>	
<i>ID Number</i>	<i>O</i>	<i>An identifier that uniquely identifies the person or the company.</i>
<i>Data relating to owners of the vehicle</i>		<i>(C.2) The data refer to the owner of the vehicle.</i>
<i>Owners' (company) name</i>	<i>M</i>	<i>(C.2.1)</i>
<i>First name</i>	<i>M</i>	<i>(C.2.2)</i>
<i>Address</i>	<i>M</i>	<i>(C.2.3)</i>
<i>Gender</i>	<i>O</i>	<i>male, female</i>
<i>Date of birth</i>	<i>M</i>	
<i>Legal entity</i>	<i>M</i>	<i>individual, association, company, firm, etc.</i>
<i>Place of Birth</i>	<i>O</i>	
<i>ID Number</i>	<i>O</i>	<i>An identifier that uniquely identifies the person or the company.</i> <i>In case of scrap vehicles, stolen vehicles or number plates, or outdated vehicle registration no owner /holder information shall be provided. Instead, the message "Information not disclosed" shall be returned.</i>

Justification

This new annex is the insertion of the Point 1.2.2 of Chapter 3 of the Annex to Decision 2008/616/JHA with some adaptations.

Amendment 35

**Council position
Annex I b (new)**

Council position

Amendment

Annex Ib

Part I: orientations for guidelines for

road safety policies

Guidelines should be proposed at the Union level in order to ensure greater convergence in the enforcement of road traffic rules by Member States through comparable methods, practices, standards and frequency of controls.

1. The use of automatic checking equipment for speed on motorways, secondary roads and urban roads should be encouraged by Member States in particular on those sections of the road network where the number of accidents caused by speeding is higher than average. This use should try to ensure good geographical coverage of the territory of each Member State.

2. Specific efforts should be made regarding the number of speed checks using automatic equipment in Member States where the number of road fatalities is above the EU average or the fall in the number of road fatalities is below the EU average since 2001.

3. As regards drink-driving, Member States should be encouraged to carry out random tests as a priority in places where, and at times when, non-compliance is frequent and the risk of accidents increases.

A significant proportion of drivers should be tested annually.

4. As regards the use of seat belts, intensive checking operations should be conducted during determined period of time in any one year by Member States where a significant proportion of road users do not wear seat belts, in particular in places where, and at times when, non-compliance is frequent.

5. As regards failure to stop at a red traffic light, automatic checking equipment should be used primarily for junctions where the rules are often breached and a higher than average

number of accidents occur as a result of driving through a red traffic light.

6. The exchange of good practices should be facilitated through the organisation of networks at Union level and through modern information technologies; in particular, Member States which are most advanced in the area of automatic checking should be encouraged to provide technical assistance to those Member States which so request.

Part II: criteria for enforcement procedures

Common criteria for follow-up procedures should be followed by Member States in the case of non-payment of a financial penalty irrespective of the administrative or penal nature of the sanction and respecting Member States' laws and procedures. Such criteria should focus in particular on:

- the transmission of the final decision between the different competent authorities of the Member States of the offence and the Member States of residence;*
- the recognition and the enforcement of the final decision; or non-enforcement of the decision.*
- the information of the respective authorities on the decision of enforcement.*

Justification

This new annex reinserts the main elements of the first reading of the Parliament: the road safety guidelines and general criteria for the enforcement procedures. These elements have to be examined by the European Commission in a future proposal on road safety.

EXPLANATORY STATEMENT

The Commission's proposal for a new legal instrument

The White Paper on European transport policy published in 2001 contained the ambitious objective of reducing by 50% the number of persons killed on the roads by 2010 for the European Union. But this progress took place mostly during the first half of the decade. Since 2005 the reduction in the number of road deaths has been slowing down. According to the Community database on road accidents (CARE) indicators, in 2009, the number of fatalities continued to decrease by 11%. Overall the decade from 2001 until 2009 the number of fatalities decreased by 36%, which is unfortunately below the objective of the White Paper.

The origin of the proposal by the Commission came from studies showing the evidence that non-residents account for a disproportionately high number of road traffic accidents, particularly as regards speeding. However, sanctions imposed for offences committed on the territory of Member States other than the driver's country of residence are most frequently not enforced, in particular for automatically recorded offences, which have greatly increased with the widespread installation of automatic radar systems on European roads. This relative impunity undermines the objectives of road safety and undermines the legitimacy of these controls in the eyes of European citizens, arguing that residents and non-residents must be treated equally.

The Commission intended to facilitate the enforcement of penalties against drivers who have committed offences relating to speeding, drink-driving, a failure to wear a seatbelt or failure to stop at red lights in a Member State other than their own. The Commission deliberately chose to limit the scope of the Directive to the four offences, which are responsible for most fatalities and are all considered offences in all Member States of the European Union.

The proposal established a procedure for exchanging information between Member States through an electronic data exchange network to identify a vehicle, which has committed an offence. Following identification, an offence notification would have been sent by the relevant authority in the State of offence to the holder of the registration certificate of the vehicle concerned.

Parliament's first reading

The European Parliament adopted on 17 December 2008 by a very large majority its position at first reading reinforcing the proposal. Parliament inserted in particular EU-wide road safety guidelines aiming to strengthen road safety control practices for speeding, drink-driving, use of seatbelts and the failure to stop at red traffic light by establishing minimum comparable criteria. Parliament also inserted an Article forcing Member States and European Commission to provide road users with the necessary information about the measures implementing the Directive.

Parliament completed also the follow-up of road traffic infringements (recognition, transmission and enforcement of sanctions) by inserting new provisions concerning the cases

where financial penalty had not been paid. Framework Decision 2005/214/JHA should apply for penalties in a criminal law system; for the penalties imposed according to an administrative law system, the State of offence should transmit the final decision to the State of residence for enforcement. In order to take into account these specific national features, Parliament proposed additional provisions allowing the penalty decision to be transmitted to and followed up by the authorities of the State of residence of the person having committed the offence.

Parliament took into account a number of concerns voiced by the European Data Protection Supervisor (EDPS) in his opinion of 8 May 2008. It intended in particular to have a number of rights provided by Directive 95/45/EC to be safeguarded and enshrined in the body of the directive and in the offence notification contained in the Annex.

Finally, Parliament aimed to give a temporal perspective for the reinforcement and the revision of the Directive by inserting in the directive an obligation for the Commission to report, two years after the entry into force of the directive, on its implementation and experience gathered following this evaluation. Based on this report, the Commission will be required to do proposals for amending the directive, in particular as regards the effectiveness of implementation, its scope, the control practices and the standardisation of control equipment.

The Council's position at first reading

After two years of blocked discussions, the Council reached a political agreement at the Transport Council of 3rd December 2010. Council's text substituted the former Transport legal basis (Article 91) with the new Article 87(2) of the Treaty on police cooperation on "*the collection, storage, processing, analysis and exchange of relevant information*".

With the change of legal basis, major modifications were also made by the Council:

- The Council deleted any reference to enforcement procedures in the text by limiting the proposal to an exchange of data. It leaves the enforcement facultative, depending on the decisions of the different Member States, and in the respect of the national procedures. An information letter now replaces the notification, for which a facultative template is proposed.
- This new legal basis had an effect on the geographical implementation of the Directive, as the Article 87(2) is under the "opt-in" (UK and Ireland) and "opt-out" (Denmark) of certain countries. After three months of internal debate, United Kingdom and Ireland decided not to opt-in. This regrettable decision hinders the fair and equal treatment of European citizens across the European Union and weakens the deterrent effect originally purchased.

Concerning the exchange of data between Member States, Council made the clear choice to use the EUCARIS system, which is an intergovernmental network used for the Prüm Treaty on the cooperation against organised crime and terrorism. This Treaty aims to fight cross border illegal activities like terrorism and organised crime by facilitating the exchange of personal data and vehicle registration numbers. Neither the Commission nor the Parliament wished to pronounce themselves in favour of a specific data exchange system, considering

that it should be a Community system determined at a later stage.

The Council proposed also to extend the scope by inserting four more infractions: driving under the influence of drugs, failing to wear a safety helmet, use of a forbidden lane and illegal use of a cell phone or any other communication devices while driving. All Member States do not all equally recognise these infractions, like for example using a cell phone while driving. For others, like driving under the influence of drugs, the techniques are not considered by all Member States to be sufficient to allow a proper enforcement of such offence.

On the issue of information toward drivers, the Council retained only the obligation for the Commission to provide information to the drivers. As regards the guidelines for road safety, no reference was inserted to the proposal made by the Parliament. Finally, on the procedure of revision of the Directive, Council adopted a much lighter version than the ones proposed by the Parliament by limiting the revision to the extension of the scope without any perspective to the enforcement of the sanctions.

Your rapporteur's views

Your rapporteur welcomes the first reading of Council, which was adopted after two years of discussions. But she deplores that among substantial changes a lot of provisions proposed originally by the Commission and reinforced by the Parliament in first reading have been completely deleted from the text. As a consequence, the new text is now limited to an exchange of data between Member States.

Your rapporteur deeply regrets as well that three Member States have chosen not to participate to the Directive, as the new legal basis chosen by the Council let the door opened for the opt-in of Ireland and United Kingdom and for the opt-out of Denmark. This choice will have consequence on the equal and fair treatment of European citizens by preserving a feeling of impunity.

Your rapporteur considers nevertheless that an important step has been achieved with the adoption of the first reading of the Council, which represents a first step towards a common transport policy in the field of road safety. The Parliament should now take this opportunity to progress on road safety policies at the Union level. This is the reason why she will propose a limited number of amendments in order to reinforce certain provisions of the Council's text and to guarantee that future actions will be taken.

Your rapporteur proposes to reintroduce in the Council's position at first reading certain elements of Parliament's first reading while preserving at the same time the fragile compromise reached in the Council in December. Your rapporteur considers that the legal basis proposed by the Council should not be modified, although she would have preferred to keep the original transport legal basis.

Your rapporteur proposes in her recommendation the following amendments:

- A new technical annex which replaces the reference to the Decision 2008/616/JHA on the Prüm convention. This new annex should be modified by the procedure of delegated acts;
- Some clarifications are introduced on the provisions related to the software applications and

to the information letter;

- The reporting obligations to be respected by Member States should be reinforced on the timing and on the content;
- Elements of the first reading of the Parliament are reintroduced concerning the personal data protection (Article 7);
- The obligation to inform the drivers is also reinforced, in line with the first reading of the Parliament;
- The Article 9 on the revision of the Directive is reinforced and extended to other matter than the scope. It asks for revision on the enforcement procedures, the harmonisation of traffic rules and the control procedures, as described in a second new annex retaining the main elements of the guidelines proposed by the Parliament in its first reading.

PROCEDURE

Title	Cross-border enforcement in the field of road safety		
References	17506/1/2010 – C7-0074/2011 – 2008/0062(COD)		
Date of Parliament's first reading – P number	17.12.2008	T6-0616/2008	
Commission proposal	COM(2008)0151 - C6-0149/2008		
Receipt of Council position at first reading announced in plenary	24.3.2011		
Committee responsible Date announced in plenary	TRAN 24.3.2011		
Rapporteur(s) Date appointed	Inés Ayala Sender 18.4.2008		
Rule 51 – joint committee meetings Date announced in plenary			
Discussed in committee	14.2.2011	12.4.2011	23.5.2011
Date adopted	24.5.2011		
Result of final vote	+: 38	-: 1	
	0: 2		
Members present for the final vote	Inés Ayala Sender, Georges Bach, Izaskun Bilbao Barandica, Antonio Cancian, Michael Cramer, Ryszard Czarnecki, Luis de Grandes Pascual, Christine De Veyrac, Saïd El Khadraoui, Ismail Ertug, Knut Fleckenstein, Jacqueline Foster, Mathieu Grosch, Jim Higgins, Juozas Imbrasas, Ville Itälä, Dieter-Lebrecht Koch, Werner Kuhn, Jörg Leichtfried, Bogusław Liberadzki, Eva Lichtenberger, Marian-Jean Marinescu, Gesine Meissner, Hubert Pirker, Vilja Savisaar-Toomast, Olga Sehnalová, Debora Serracchiani, Brian Simpson, Dirk Sterckx, Keith Taylor, Silvia-Adriana Țicău, Giommara Uggias, Thomas Ulmer, Dominique Vlasto, Artur Zasada, Roberts Zīle		
Substitute(s) present for the final vote	Philip Bradbourn, Guido Milana, Dominique Riquet, Alfreds Rubiks, Laurence J.A.J. Stassen		
Date tabled	31.5.2011		