



EUROPEAN COMMISSION

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OPINION OF THE COMMISSION

**pursuant to Article 294(7)(c) of the Treaty on the Functioning of the European Union,
on the European Parliament's amendment[s]
to the Council's position regarding the
proposal for a**

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

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1. BACKGROUND

Date of transmission of the proposal to the EP and the Council COM(2008) 151 final – 2008/0062(COD)	19/03/2008
Date of the opinion of the European Economic and Social Committee:	17/09/2008
Date of the opinion of the European Parliament at first reading:	17/12/2008
Date of the Council's political agreement at first reading (unanimity):	02/12/2010
Date of formal adoption of the Council's position at first reading (unanimity)	17/03/2011
Date of Parliament's opinion at second reading	6/07/2011

2. OBJECTIVE OF THE COMMISSION PROPOSAL

The Commission proposal aims at improving road safety by establishing a system of information exchange between the State of offence and the State of registration on the most serious road safety infringements. It serves to identify the vehicle owner who has committed an offence in a Member State other than the one where his vehicle is registered; the Member State of offence would then be in a position to prosecute and sanction him.

The offences covered by the Commission proposal are speeding, non-use of a seatbelt, failing to stop at a red traffic light and drink-driving. These traffic offences are responsible for the greatest number of road accidents and fatalities.

The text also defines the exchange procedures (data, responsible authorities and network) and provides for a model of notification letter that will be sent to the holder of the registration certificate.

3. COMMISSION'S OPINION ON THE AMENDMENTS PROPOSED BY PARLIAMENT

3.1 General comments

On the basis of the recommendation voted by the Committee on Transport and Tourism on 24 April 2011 concerning the Council's first-reading position, a number of informal contacts took place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at second reading. Following these contacts, an overall compromise amendment was presented by the TRAN Committee and subsequently voted by the plenary on 6 July 2011. The Commission endorses this compromise amendment on substance, while recalling its position already expressed at first reading concerning the choice of the "police cooperation" legal basis by both co-legislators on the one hand and the absence of correlation tables in the text on the other hand (see point 4).

3.2 Amendments of the European Parliament at second reading

Apart from the legal basis issue, the Council's position at first reading has already been supported by the Commission as far as its substance is concerned (see the Commission's opinion on the Council's position¹). The most important changes introduced by the amendments of the European Parliament to the Council's position are as follows:

- (1) Information letter: clarification that, when the Member State of offence decides to initiate a follow-up procedure, an information letter to the offender is obligatory.
- (2) Strengthening of the provisions on data protection in order to avoid the possible misuse of personal data.
- (3) Introduction of a new provision on delegated acts in order to enable the modification of the technical annex regarding the data set for the information exchange.
- (4) Strengthened revision clause in order for the Commission to assess whether new legislative proposals are needed on the development of common standards for automatic checking equipment, on the harmonisation of traffic rules as well as on the establishment of common criteria regarding the follow-up procedures. It also includes a Commission statement that it will examine the need to develop guidelines at EU level in order to ensure greater convergence in the enforcement of road traffic rules by Member States.

3.3 Statement on the legal basis

With regard to the choice of the legal basis, the Commission considers that from a legal and institutional perspective the "police cooperation" legal basis (Article 87 paragraph 2), which was retained by the Council at first reading and not challenged by the European Parliament at second reading, does not constitute the appropriate legal basis for this Directive. Against this background, the Commission entered a statement to the Council minutes reserving its right to use all legal means at its disposal (see Commission's statement under point 4).

¹ COM (2011) 148

3.4 Statement on the correlation table

The agreement does not foresee any obligation for Member States to transmit to the Commission a correlation table, in spite of the general line usually taken by the European Parliament on the matter. Considering the particularities of the file (unanimity rule in Council, 2nd reading agreement), co-legislators agreed on a solution concerning correlation tables that would not affect on-going inter-institutional discussion on this matter.

Council and European Parliament issued a joint statement underlining that the adoption of this Directive does not prejudge the outcome of inter-institutional negotiations on correlation tables.

In addition, the Commission issued a statement which regrets the absence of correlation tables in the main body of the text and confirms the commitment of the Commission towards ensuring that Member States establish correlation tables linking the transposition measures they adopt with the Directive. In a spirit of compromise however and in order to facilitate the immediate adoption of this proposal, the Commission also indicated that it can accept the substitution of the obligatory provision on correlation tables included in the text with a relevant recital encouraging Member States to follow this practice, but stressed that its position followed in this file shall not be considered as a precedent (see point 4)

4. CONCLUSIONS/GENERAL OBSERVATIONS

The European Parliament adopted its second reading amendments on 6 July 2011 following informal contacts with the Council and the Commission.

While the Commission confirms that it endorses the overall compromise amendment voted as it reflects the main objectives of its proposal, the change of the legal basis however has led the Commission to confirm the following statement:

"The Commission notes that both Council and European Parliament agree on the replacement of the legal basis proposed by the Commission, namely Article 91, paragraph 1c, TFEU by Article 87, paragraph 2, TFEU. While the Commission shares the view of both co-legislators about the importance of pursuing the aims of the proposed Directive to improve road safety, it considers however from a legal and institutional perspective that Article 87, paragraph 2, TFEU does not constitute the appropriate legal basis and therefore reserves its right to use all legal means at its disposal. "

Concerning the revision clause and further steps to be undertaken by the Commission for road safety, the Commission issued the following statement:

"The Commission will examine the need to develop guidelines at EU level in order to ensure greater convergence in the enforcement of road traffic rules by Member States through comparable methods, practices, standards and frequency of controls, in particular in relation to speeding, drink-driving, non-use of seatbelts and failing to stop at a red traffic light".

On the correlation tables' issue, while the Commission accepts the substitution of the obligatory provision on correlation tables included in the text with a relevant recital encouraging Member States to follow this practice, it however made the following statement to recall its position on this horizontal question.

“The Commission recalls its commitment towards ensuring that Member States establish correlation tables linking the transposition measures they adopt with the EU directive and communicate them to the Commission in the framework of transposing EU legislation, in the interest of citizens, better-law making and increasing legal transparency and to assist the examination of the conformity of national rules with EU provisions.

The Commission regrets the lack of support for the provision included in the proposal for a Directive of the European Parliament and of the Council facilitating cross-border enforcement in the field of road safety, which aimed at rendering the establishment of correlation tables obligatory.

The Commission, in a spirit of compromise and in order to ensure the immediate adoption of that proposal, can accept the substitution of the obligatory provision on correlation tables included in the text with a relevant recital encouraging Member States to follow this practice.

However, the position followed by the Commission in this file shall not be considered as a precedent. The Commission will continue its efforts with a view to finding together with the European Parliament and the Council an appropriate solution to this horizontal institutional issue”.