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**TRANS 189  
CODEC 748**

## REPORT

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From:	General Secretariat of the Council
To:	Council
No. prev. doc.:	ST 8856/18 TRANS 189 CODEC 748 ST 8309/18 TRANS 164 CODEC 626
No. Cion doc.:	ST 9673/17 TRANS 217 CODEC 928
Subject:	Proposal for a Directive of the European Parliament and of the Council on the interoperability of electronic road toll systems and facilitating cross-border exchange of information on the failure to pay road fees in the Union (recast) (Text with EEA relevance) – General approach

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### 1. INTRODUCTION

1. On 1 June 2017, the Commission transmitted the above-mentioned proposal to the European Parliament and to the Council, as a part of the so-called *First Mobility Package*.
  - The main objective of the proposal is to facilitate electronic systems for the collection of road tolls that would be widely interoperable in the Union;
  - The Commission considers that the Directive in force has not fully reached all its objectives, and it merits revision;

- The Commission identifies administrative barriers, including local technical specifications, wide compulsory geographic coverage and compulsory satellite-based services for light-duty vehicles as the main sources for issues in the current legislative situation;
  - Furthermore, the Commission proposes to establish a system for the exchange of information between Member States to identify drivers that do not pay their road tolls;
  - The proposal has been presented using the recasting technique.
2. The European Parliament's Committee on Transport and Tourism (TRAN) appointed on 30 June 2017 Mr Massimiliano Salini (EPP, IT) as rapporteur. The Civil Liberties, Justice and Home Affairs Committee (LIBE) adopted its opinion on 28 March 2018. The Legal Affairs Committee (JURI) is to provide its opinion on the use of the recasting technique.
  3. The European Economic and Social Committee adopted its opinion on the proposal on 18 October 2017 and the Committee of Regions adopted its opinion on 1 February 2018.
  4. The Dutch House of Representatives, the Senate of the Republic of Italy, the Romanian Senate, the Czech Senate and the French National Assembly have adopted opinions on the application of the principles of subsidiarity and proportionality.

## **2. WORK WITHIN THE COUNCIL**

5. The Working Party on Land Transport started its examination of the proposal on 1 June 2017 with a general presentation by the Commission. The impact assessment was studied on 21 June 2017.

6. During the Bulgarian Presidency, the Working Party discussed the proposal in its meetings on 8 January, 26 February, 15 March, 20 March, 23 April and 8 May 2018. One of the key challenges of the file was to incorporate in the Directive the elements perceived essential in Commission Decision 2009/750/EC<sup>1</sup> and notably the changes necessary to those elements. The Electronic Toll Committee<sup>2</sup> has carried out technical preparations regarding said necessary changes. The Presidency has developed a compromise between provisions contained within the Directive and the definition of details empowered to the Commission.
7. The extension of the electronic road tolling directive to provide for exchange of information on drivers not paying their road fees constituted the second major theme for work at the Working Party. On the one hand, the system must be coherent with the principles and provisions relating to the protection of personal information. On the other hand, in certain Member States the national legislation does not allow to pursue for an infringement without an intermediate step of notification. The Working Party found a compromise that was largely satisfactory in both terms.

### 3. **OUTSTANDING ISSUES**

8. The Working Party has addressed technical issues to a large extent. Certain basic policy choices, notably on remuneration, are not fully shared by all Member States. However, the Presidency considers that the current compromise text represents a balanced but also a coherent solution to the issues at stake.

### 4. **CONCLUSION**

9. The Permanent Representatives Committee endorsed the compromise text with minor amendments on 25 May 2018 and decided to submit it, as presented in the annex to this report, for a general approach at the TTE Council (Transport) on 7 June 2018.

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<sup>1</sup> Commission Decision of 6 October 2009 on the definition of the European Electronic Toll Service and its technical elements, OJ L 268, 13.10.2009, p. 11

<sup>2</sup> Established pursuant to Directive 2004/52/EC on the interoperability of electronic road toll systems in the Community

**Proposal for a**

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the interoperability of electronic road toll systems  and facilitating cross-border exchange of information on the failure to pay road fees  in the ~~Community~~  Union**   
**(recast)**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the  Treaty on the Functioning of the European Union  ~~Treaty establishing the European Community~~, and in particular Article 7  91  (1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

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↓ new

→ Council

(1) Directive 2004/52/EC of the European Parliament and of the Council<sup>1</sup> has been substantially amended. Since further amendments are to be made, that Directive should be recast in the interests of clarity.

→(1a) It is necessary to make electronic tolls interoperable to reduce the cost and burden linked to the payment of tolls across the Union.

(1aa) The lack of interoperability is a significant problem in electronic road toll systems where the road fee due is linked to the distance covered by the vehicle (distance-based tolls) or to the passage of the vehicle through a specific point (e.g. cordon pricing). The provisions regarding the interoperability of electronic road toll systems should therefore apply only to those systems and should not apply to systems where the road fee due is linked to the time spent by the vehicle on the tolled infrastructure (time-based systems, vignettes).

(1ab) Cross-border enforcement of the obligation to pay road fees is a significant problem in all kinds of systems, distance-based, cordon or time-based, electronic or manual. The provisions regarding the cross-border exchange of information on cases of failure to pay a road fee should therefore apply to all those systems.

(1ac) Due to the lack of their consistent classification across the Union, and their indirect link to the use of the infrastructure, parking fees should be left outside the scope of the Directive.

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<sup>1</sup> Directive 2004/52/EC of the European Parliament and of the Council of 29 April 2004 on the interoperability of electronic road toll systems in the Community (OJ L 166, 30.4.2004, p. 124).

- (1b) The interoperability of electronic tolling systems requires a level of harmonisation of the technology used and of the interfaces between interoperability constituents.
- (1c) The harmonisation of technologies and interfaces should be supported by the development and maintenance of appropriate open and public standards, available on a non-discriminatory basis to all system suppliers.
- (1d) For the purpose of covering, with their on-board equipment ('OBE'), the required communication technologies, European Electronic Toll Service ('EETS') providers should be allowed to make use of and link to other hardware and software systems already present in the vehicle such as satellite navigation systems or handheld devices.
- (1e) The specific characteristics of electronic tolling systems which are currently applied to light-duty vehicles should be taken into account. Since no such electronic tolling systems currently use satellite positioning or mobile communications, EETS providers should be allowed, for a limited period of time, to provide light-duty vehicles with OBE suitable for use with the 5.8 GHz technology only. This derogation should be without prejudice to the right of Member States to implement satellite-based tolling for light-duty vehicles.
- (1f) Tolling systems based on automatic number plate reading (ANPR) require more manual checks of toll transactions in the back office than systems using OBE. Systems with OBE are more efficient for large electronic toll domains, and ANPR systems are more suitable for small domains, such as city tolls, where the use of OBE would generate disproportionate costs or administrative burden. ANPR can be useful when combined with other technologies.
- (1g) In consideration of the technical developments of the solutions based on ANPR the standardisation bodies should be encouraged to define the necessary technical norms.
- (1h) The specific rights and obligations of EETS providers should apply to companies which prove the fulfillment of certain requirements and obtain registration as EETS providers in their Member State of establishment.

- (1i) The rights and obligations of the main EETS actors, i.e. EETS providers, Toll Chargers and EETS users, should be clearly defined to ensure that the market functions in a fair and efficient manner.
- (1j) It is particularly important to safeguard certain rights of the EETS providers, such as the right to the protection of commercially sensitive data, without negatively impacting the quality of the services provided to the Toll Chargers and EETS users.
- (1k) EETS providers should be required to fully cooperate with Toll Chargers in their enforcement efforts, so as to increase the overall efficiency of electronic tolling systems.
- (1l) In order to allow EETS providers to compete, in an undiscriminatory manner, for all clients in a given EETS domain, it is important that the possibility is given to them to become accredited to that domain sufficiently early to be able to offer services to the users as of the first day of operation of the tolling system.
- (1m) Toll Chargers should be explicitly required to give access to their EETS domain to EETS providers on a non-discriminatory basis.
- (1n) To ensure transparency and non-discriminatory access to EETS domains for all EETS providers, Toll Chargers should be required to publish all the necessary information relative to access rights in an EETS domain statement.
- (1o) All OBE user rebates or discounts on tolls offered by a Member State or by a Toll Charger should be available under the same conditions to clients of EETS providers.
- (1p) EETS providers should be entitled to fair remuneration, calculated based on a transparent and non-discriminatory methodology.
- (1q) EETS providers should be required to pay to the Toll Charger all the toll due by their clients; EETS providers should however not be liable for tolls not paid by their clients, when the latter are equipped with OBE declared to the Toll Charger as invalidated.

- (1r) Where a legal entity being a toll service provider also plays other roles in an electronic toll collection system, or has other activities not directly related with electronic toll collection, it should be required to keep accounting records which allow for a clear distinction of the costs and revenues related to the toll service provision from the costs and revenues related to other activities, and to provide information on those costs and revenues related to the toll service provision to the relevant Conciliation Body or judicial body. Cross subsidies between those different activities should be excluded.
- (1s) Users should have the possibility to subscribe to EETS through any EETS provider, regardless of nationality, Member State of residence or Member State of registration of the vehicle.
- (1t) To avoid double payment and to give users legal certainty, the payment of a toll to an EETS provider should be considered as fulfilling the user's obligations towards the relevant Toll Charger.
- (1u) The Conciliation Bodies should be empowered to verify that the contractual conditions imposed on any EETS provider are non-discriminatory. In particular, they should be empowered to verify that the remuneration offered by the Toll Charger to the EETS providers respects the principles of this Directive.
- (1v) Traffic data of EETS users constitutes essential input for enhancing transport policies of the Member States. Member States should therefore have the possibility to request such data from EETS providers for the purpose of designing traffic policies and enhancing traffic management or for other non-commercial use by the State, in compliance with applicable data protection rules.
- (1w) There is a need to define a framework for the procedures for accrediting EETS providers to a toll domain, which ensure fair access to the market while safeguarding the correct level of service.

- (1x) The procedures governing the assessment of conformity to specifications and of suitability for use of EETS interoperability constituents should be based on the use of the modules covered by Decision No 768/2008/EC of the European Parliament and of the Council<sup>1</sup>. As far as possible and in order to promote industrial development, it is appropriate to draw up procedures involving a system of quality assurance. Those procedures should enable the bodies notified to assess the conformity to specifications and suitability for use of EETS interoperability constituents to be certain that, at the design, construction, putting into service stages and during operation, the result is in line with the regulations and technical and operational provisions in force. The notified bodies should coordinate their decisions as closely as possible.
- (1z) To ensure easy access to information by EETS market actors, Member States should be required to compile and publish all important data regarding EETS in publicly available national registers.
- (1za) To allow for technological progress, it is important that Toll Chargers have the possibility to test new tolling technologies or concepts. Such tests should however be limited, and EETS providers should not be required to take part in them unless it is essential for the testing of the pilot toll system. The Commission should have the possibility not to authorise such tests if they could bring prejudice to the correct functioning of the regular electronic road toll system. ☹

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<sup>1</sup> Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC (OJ L 218, 13.8.2008, p. 82).

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 1 (adapted)

~~By its Resolution of 17 June 1997 on the development of telematics in road transport, in particular with respect to electronic fee collection (EFC)<sup>1</sup>, the Council called on the Commission and Member States to develop a strategy for the convergence of EFC systems in order to achieve an appropriate level of interoperability at a European level. The communication of the Commission on interoperable electronic fee collection systems in Europe was the first stage of this strategy.~~

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 2 (adapted)

~~The majority of Member States which have installed electronic toll systems to finance road infrastructure costs or to collect road usage fees (jointly referred to hereinafter as ‘electronic toll systems’) use short-range microwave technology and frequencies close to 5,8 GHz, but these systems are currently not totally compatible. The work on microwave technology undertaken by the European Committee for Standardisation (CEN) resulted in January 2003 in the preparation of technical standards making for the compatibility of 5,8 GHz microwave electronic toll systems, following the adoption of technical pre-standards in 1997.~~

~~However, these pre-standards do not cover all the dedicated short-range communications (DSRC) 5,8 GHz systems in operation in the Community and encompass two variants which are not totally compatible. They are based on the open systems interconnection model defined by the International Standardisation Organisation for communication between computer systems.~~

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<sup>1</sup> ~~OJ C 194, 25.6.1997, p. 5.~~

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 3 (adapted)

~~Manufacturers of equipment and infrastructure managers have nonetheless agreed, within the Community, to develop interoperable products based on existing DSRC 5,8 GHz systems. The equipment that will need to be made available to users should accordingly be capable of communicating with the technologies that may only be used in new electronic toll systems to be deployed in the Community after 1 January 2007, namely satellite positioning technology, mobile communications technology using the GSM-GPRS standard and 5,8 GHz microwave technology.~~

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 4 (adapted)

~~It is essential that the standardisation work be completed as quickly as possible to establish technical standards ensuring technical compatibility among electronic toll systems based on 5,8 GHz microwave technology and on satellite positioning and mobile communications technologies, in order to avoid further fragmentation of the market.~~

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 5 (adapted)  
↻ Council

↻ [...] ↻

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 6  
↻ Council

↻ [...] ↻

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 7

~~In introducing new electronic toll systems, sufficient equipment should be made available to avoid discrimination between the undertakings concerned.~~

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 8

~~In particular, owing to their great flexibility and versatility, application of the new satellite positioning (GNSS) and mobile communications (GSM/GPRS) technologies to electronic toll systems may serve to meet the requirements of the new road-charging policies planned at Community and Member State level. These technologies enable the number of kilometres covered per category of road to be counted without requiring costly investment in infrastructure. They also open the door to additional new safety and information services for travellers, such as the automatic alarm triggered by a vehicle involved in an accident and indicating its position, and real-time information on traffic conditions, traffic levels and journey times.~~

~~With regard to satellite positioning, the Galileo project launched by the Community in 2002 is designed to provide, as of 2008, information services of higher quality than that provided by the current satellite navigation systems and which are optimal for road telematic services. The European geostationary navigation overlay service (EGNOS) precursor system will already be operational in 2004, providing similar results. However, these innovative systems could raise problems concerning the reliability of checks and with regard to fraud prevention. However, owing to the considerable advantages referred to above, the application of satellite positioning and mobile communications technologies is in principle to be recommended in introducing new electronic toll systems.~~

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 9 (adapted)  
↻ Council

↻ [...] ↻

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 10 (adapted)  
↻ Council

↻ [...] ↻

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 11

~~Drivers are legitimately concerned to see improved quality of service on the road infrastructure, in particular in terms of safety, as well as a substantial reduction in congestion at toll plazas, especially on busy days and at certain particularly congested points in the road network. The definition of the European electronic toll service needs to address that concern. Provision should, moreover, be made to ensure that the technologies and components provided for can, as far as technically possible, also be combined with other vehicle components, in particular the electronic tachograph and emergency call capabilities. Intermodal systems should not be excluded at a later stage.~~

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 12

~~The option of accessing other, future applications in addition to toll collection should be ensured by fitting appropriate equipment.~~

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↓ Corrigendum, OJ L 200, 7.6.2004, p.  
50, recital 13  
⇒ Council

⇒ [...] ⇐

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↓ Corrigendum, OJ L 200, 7.6.2004, p.  
50, recital 14  
⇒ Council

⇒ [...] ⇐

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↓ new  
⇒ Council

⇒ [...] ⇐

⇒ [...] ⇐

(10) ⇒ [...] ⇐ In the future, the potential for ⇒ applying other emerging technologies to ⇐  
⇒ [...] ⇐ electronic tolling ⇒ [...] ⇐ ⇒ merit exploration ⇐ , after a thorough assessment  
of the costs, benefits, technical barriers and possible solutions thereto. ⇒ It is important that  
measures are implemented to protect existing investments in the 5.8 GHz technology from  
the negative influence of other technologies. ⇐

➔ (10a) Without prejudice to State aid and competition law, Member States should be allowed to develop arrangements to promote electronic toll collection and billing. ©

➔ [...] ©

➔ [...] ©

(13) Problems with identifying non-resident offenders to electronic tolling systems hamper further deployment of such systems and the wider application of the 'user pays' and 'polluter pays' principles on Union roads ➔ and therefore there is a need to find a way to identify such persons and process their personal data. ©

(14) For reasons of consistency and efficient use of resources, the system for exchanging information on those who fail to pay a road fee ➔, and on their vehicles, © should use the same tools as the system used for exchanging information on road-safety-related traffic offenses provided for in Directive (EU) 2015/413 of the European Parliament and of the Council <sup>1</sup>.

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<sup>1</sup> Directive (EU) 2015/413 of the European Parliament and of the Council of 11 March 2015 facilitating cross-border exchange of information on road-safety-related traffic offences (OJ L 68, 13.3.2015, p. 9).

➔ (14a) In certain Member States a failure to pay a road fee is established only once the obligation to pay the road fee has been notified to the user. Since this Directive does not harmonise national laws in this regard, Member States should have the possibility to apply this Directive to identify users and vehicles for the purpose of notification. However, such extended application should be allowed only if certain conditions are fulfilled. ◀

➔ [...] ▶

(16) Member States should be required to provide the Commission with the information and data necessary to evaluate the effectiveness and efficiency of the system for exchanging information on those who fail to pay a road fee. The Commission should be required to assess the data and information obtained, and to propose, if necessary, amendments to the legislation. ➔ The Commission should also assess the impact of such amendments on the market of EETS provision, including small and remote EETS domains, and propose further measures if necessary. ▶

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 15

~~Electronic toll systems contribute significantly to reducing the risk of accidents, thus increasing road safety, to reducing the number of cash transactions and to reducing congestion at toll plazas, especially on busy days. They also reduce the negative environmental impact of waiting and restarting vehicles and congestion, as well as the environmental impact related to the installation of new toll gates or expansion of existing toll stations.~~

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 16 (adapted)

~~The White Paper on European Transport Policy for 2010 contains objectives of safety and fluidity of road traffic. Interoperable intelligent transport services and systems are a key tool in the achievement of these objectives.~~

↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 17 (adapted)  
↻ Council

- (17) The ↻ enforcement of the obligation to pay road fees, the identification of the vehicle and of the owner or holder of the vehicle for which a failure to pay a road fee was established and the collection of information on the user for the purpose of ensuring the compliance of the Toll Charger with its obligations towards tax authorities ↻ [...] ↻ entail the processing of personal data. Such processing needs to be carried out in accordance with Community ↻ Union ↻ rules, as set out, *inter alia*, in ~~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~~<sup>1</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>2</sup>, Directive (EU) 2016/680 of the European Parliament and of the Council<sup>3</sup> and Directive 2002/58/EC of the European Parliament and of the Council ~~of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector~~<sup>4</sup>. The right to protection of personal data is explicitly recognised by Article 8 of the Charter of Fundamental Rights of the European Union.

<sup>1</sup> ~~OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).~~

<sup>2</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p.1).

<sup>3</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

<sup>4</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (OJ L 201, 31.7.2002, p. 37).

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 18

~~Automatic debiting of toll charges to bank accounts or credit/debit card accounts which are domiciled anywhere, in the Community and beyond, is conditional on a fully operational Community payments area with non-discriminatory service charges.~~

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 19

~~Systems of electronic toll collection which are put in place in the Member States should meet the following fundamental criteria: the system should be amenable to ready incorporation of future technological and systems improvements and developments without costly redundancy of older models and methods, the costs of its adoption by commercial and private road users should be insignificant compared with the benefits to those road users as well as to society as a whole, and its implementation in any Member State should be non-discriminatory in all respects between domestic road users and road users from other Member States.~~

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 20 (adapted)

~~Since the objectives of this Directive, in particular, the interoperability of electronic toll systems in the internal market and the introduction of a European electronic toll service covering the entire Community road network on which tolls are charged, cannot be sufficiently achieved by the Member States and can therefore, by reason of their European dimension, be better achieved at Community level, the Community may take measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.~~

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 21 (adapted)

~~The inclusion of interested parties (such as toll service operators, infrastructure managers, electronics and motor industries and users) in Commission consultations on technical and contractual aspects of creating the European electronic toll service should be provided for. Where appropriate, the Commission should also consult non-governmental organisations active in the field of privacy protection, road safety and the environment.~~

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 22 (adapted)

~~To set up the European electronic toll service it will first be necessary to establish guidelines to be laid down by the Electronic Toll Committee established by this Directive.~~

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 23

(18) This Directive does not affect the Member States' freedom to lay down rules governing road infrastructure charging and taxation matters.

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50, recital 24

~~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<sup>1</sup>.~~

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<sup>1</sup> ~~OJ L 184, 17.7.1999, p. 23.~~

↓ new

☞ Council

- (19) In order to ☞ [...] ☹ facilitate the cross-border exchange of information on ☞ the vehicles and owners or holders of vehicles for which there was a ☹ failure to pay road fees, 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 ☞ [...] ☹ ☞ adaptation of Annex II to changes in the Union legislation ☹ . It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>1</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- ☞ (19a) The implementation of this Directive requires uniform conditions for the application of technical and administrative specifications for the deployment, in the Member States, of procedures and interfaces between EETS actors, so as to facilitate interoperability and ensure that national toll collection markets are governed by equivalent rules. In order to ensure uniform conditions for the implementation of this Directive and to define those technical and administrative specifications, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>2</sup>. ☹

<sup>1</sup> OJ L 123, 12.5.2016, p. 1.

<sup>2</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers OJ L 55, 28.2.2011, p. 13.

↪ [...] ↻

- (21) This Directive should be without prejudice to the obligations of the Member States relating to the time-limit for the transposition into national law of the Directive set out in Annex V, Part B.
- (22) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council.<sup>1</sup>

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<sup>1</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

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↓ Corrigendum, OJ L 200, 7.6.2004, p.  
50 (adapted)  
⇒ new  
⇒ Council

HAVE ADOPTED THIS DIRECTIVE:

**CHAPTER I**

**GENERAL PROVISIONS**

*Article 1*

**Objective  Subject-matter  and scope**

1. This Directive lays down the conditions necessary to ensure the interoperability of electronic road toll systems  and to facilitate the cross-border exchange of vehicle registration data regarding the vehicles and the owners or holders of vehicles for which there was a failure to pay road fees  in the ~~Community~~  Union . It applies to  [...]  all types of road fees, on the entire ~~Community~~  Union  road network, urban and interurban, motorways, major and minor roads, and various structures such as tunnels, bridges and ferries.

⇒ This Directive shall apply without prejudice to the decisions taken by Member States to levy fees on particular types of vehicles, to determine the level of those fees and the purpose for which such fees are levied. ⇐

2. ⇐ [...] ⇐ ⇐ Articles 3 to 4p do ⇐ not apply to:

(a) road toll systems ⇐ [...] ⇐ ⇐ which are not electronic within the meaning of Article 2(db) ⇐;

~~(b) — electronic road toll systems which do not need the installation of on-board equipment;~~

~~(eb)~~ small, strictly local road toll systems for which the costs of compliance with the requirements of ⇐ [...] ⇐ ⇐ Articles 3 to 4p ⇐ would be disproportionate to the benefits;

⇐ [...] ⇐

⇐ 2a. This Directive does not apply to parking fees. ⇐

3. ~~To achieve~~ ~~€~~ ~~The objective set in paragraph 1,~~ ~~of~~ ~~the interoperability of~~ ~~a European~~ ~~electronic~~ ~~road~~ ~~toll service~~ ~~systems in the Union~~ ~~shall be~~ ~~created~~ ~~achieved~~ ~~by means of the European Electronic Toll Service (EETS) which~~ ~~shall be.~~ ~~This service, which is~~ ~~complementary to the national electronic toll services of~~ ~~the Member States,~~ ~~shall ensure the interoperability throughout the Community, for users,~~ ~~of the electronic toll systems that have already been introduced in the Member States and~~ ~~of those to be introduced in the future in the framework of this Directive.~~

➔ 4. Where the national law requires a notification to the user of the obligation to pay before a failure to pay can be established, Member States may also apply this Directive to identify the owner or the holder of the vehicle where all the following conditions are fulfilled:

(b) there are no other means to identify the owner or holder of the vehicle; and

(c) the notification to the owner or holder of the vehicle of the obligation to pay is a compulsory stage of the procedure of payment of the road fee under the national law.

5. Where a Member State has opted to apply paragraph 4, it shall take the necessary measures to ensure that any follow-up proceedings in relation to the obligation to pay the road fee are carried out exclusively by public authorities. References to failure to pay a road fee in this Directive shall encompass cases covered by paragraph 4 where the Member State where the failure to pay takes place apply that paragraph. ⌚

↓ new

➔ Council

## Article 2

### Definitions

For the purposes of this Directive, the following definitions shall apply:

(a) ➡ [...] Ⓞ ➡ 'toll service' means the service enabling users having one contract and, where necessary, one set of on-board equipment (OBE) to use a vehicle in one or more EETS domains. It includes notably:

- where necessary, providing a customised OBE to users and maintaining its functionality;
- guaranteeing that the Toll Charger is paid the toll due by the user;
- providing the payment means to the user or accepting an existing one;
- collecting the toll from the user;
- managing customer relations with the user;
- implementing and adhering to the security and privacy policies for the toll systems. Ⓞ

- (aa) 'toll service provider' means a legal entity providing toll services on one or more EETS domains for one or more classes of vehicles; ☹
- (b) 'Toll Charger' means a public or private entity which levies ➤ [...] ☹ ➤ tolls ☹ for the circulation of vehicles in an ➤ [...] ☹ ➤ EETS ☹ domain;
- (ba) 'future Toll Charger' means a public or private entity which has been designated to become the Toll Charger in a future EETS domain; ☹
- (c) 'EETS provider' means an entity which grants access to EETS to an EETS user ➤ [...] ☹ and which is registered by its Member State of establishment ;
- (d) 'EETS user' means a natural or legal person who has a contract with an EETS provider in order to have access to the EETS;
- (da) 'EETS' means the toll service provided under a contract on one or more EETS domains by an EETS provider to an EETS user;
- (db) 'electronic road toll system' means a toll collection system in which the obligation, for the user, to pay the toll is exclusively triggered by and linked to the automatic detection of the presence of the vehicle in a certain location through remote communication with OBE in the vehicle or automatic number plate recognition; ☹
- (e) ' ➤ [...] ☹ ➤ EETS ☹ domain' means a road, a road network, a structure such as a bridge or a tunnel, or a ferry, where ➤ [...] ☹ ➤ tolls ☹ are collected using ➤ [...] ☹ ➤ an electronic road toll system ☹ ;

- (f) 'on-board equipment' (OBE) means the complete set of hardware and software components [...] provided as part of the toll service which is installed or carried on board a vehicle in order to collect, store, process and remotely receive/transmit data.  
OBE may be a single device or an integrated system ;
- (fa) 'main service provider' means a toll service provider with specific obligations, such as the obligation to sign contracts with all interested users, or specific rights, such as specific remuneration or a guaranteed long term contract, different from the rights and obligations of other service providers;
- (fb) 'interoperability constituent' means any elementary component, group of components, subassembly or complete assembly of equipment incorporated or intended to be incorporated into EETS upon which the interoperability of the service depends directly or indirectly, including both tangible objects and intangible objects such as software;
- (fc) 'suitability for use' means the ability of an interoperability constituent to achieve and maintain a specified performance when in service, integrated representatively into EETS in relation with a Toll Charger's system;
- (fe) 'Toll Context Data' means the information defined by the responsible Toll Charger necessary to establish the toll due for circulating a vehicle on a particular toll domain and conclude the toll transaction;
- (ff) 'toll declaration' means a statement to a Toll Charger that confirms the presence of a vehicle in an EETS domain in a format agreed between the toll service provider and the Toll Charger;
- (fg) 'vehicle classification parameters' means the vehicle related information according to which tolls are calculated based on the Toll Context Data;
- (fh) 'back office' means the central electronic system used by the Toll Charger, a group of Toll Chargers who have created an interoperability hub, or by the EETS provider to collect, process and send information in the framework of an electronic road toll system;

- (fi) 'substantially modified system' means an existing electronic road toll system that has undergone or undergoes a change which requires EETS providers to make modifications to the interoperability constituents that are in operation, such as reprogramming or retesting the OBE or adapting the interfaces of their back office, and requires re-accreditation;
- (fj) 'accreditation' means the process defined and managed by the Toll Charger, which an EETS provider must undergo before it is authorised to provide the EETS in an EETS domain. ☹
- (g) ☺ 'toll' and ☹ 'road fee' mean the fee which must be paid by the road user for circulating on a given road, road network, structure such as a bridge or tunnel, or ferry;
- (h) 'failure to pay a road fee' means ☺ the offense consisting of ☹ the failure by a road user to pay a road fee in a Member State, ☺ [...] ☹ defined by the ☺ [...] ☹ ☺ requirements applicable in ☹ that Member State;
- (i) 'Member State of registration' means the Member State ☺ [...] ☹ ☺ where ☹ the vehicle ☺ [...] ☹ which ☺ [...] ☹ ☺ is subject to the payment of the road fee is registered ☹ ;
- (j) 'national contact point' means a designated competent authority ☺ of a Member State ☹ for the ☺ cross-border ☹ exchange of vehicle registration data;
- (k) 'automated search' means an online access procedure for consulting the databases of one, more than one, or all of the Member States ☺ [...] ☹ ;

(l) 'vehicle' means [...] a motor vehicle, or articulated vehicle combination intended or [...] used for [...] the carriage by road of passengers or goods [...];

(m) 'holder of the vehicle' means the person in whose name the vehicle is registered, as defined in the law of the Member State of registration;

(n) 'heavy-duty vehicle' means a vehicle [...] having a maximum permissible mass exceeding 3.5 tonnes [...];

(o) 'light-duty vehicle' means a vehicle having a maximum permissible weight not exceeding 3.5 tonnes [...] .

↓ Corrigendum, OJ L 200, 7.6.2004, p.  
50 (adapted)  
⇒ new  
⇒ Council

Article ~~2~~ 3

**Technological solutions**

1. All new electronic ~~road~~ toll systems ~~which require the installation or use of OBE~~ ~~brought into service on or after 1 January 2007~~ shall, for carrying out electronic toll transactions, use one or more of the ~~following~~ following technologies ~~[...]~~ :

~~(a) satellite positioning;~~

~~(b) mobile communications;~~

~~(c) 5.8 GHz microwave technology.~~

⇒ Existing electronic ~~road~~ toll systems which ~~[...]~~ ~~require the installation or use of OBE and use other technologies~~ ~~[...]~~ shall comply with ~~[...]~~ ~~the requirements set out in the first subparagraph of this paragraph~~ if substantial technological improvements are carried out ⇐

~~(a) satellite positioning;~~

~~(b) mobile communications using the GSM GPRS standard (reference GSM TS 03.60/23.060);~~

~~(c) 5,8 GHz microwave technology~~

➔ 1a. The Commission shall request the relevant standardisation bodies in accordance with the procedure laid down by Directive 2015/1535/EU of the European Parliament and of the Council<sup>1</sup> to swiftly adopt standards applicable to electronic road toll systems with regard to the technologies listed in the first subparagraph of paragraph 1 and the ANPR technology, and to update them where necessary. The Commission shall request that the standardisation bodies ensure the continual compatibility of interoperability constituents. ☺

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↓ new

➔ Council

2. ➔ [...] ☺ ➔ OBE ☺ which uses satellite positioning technology ➔ and is placed on the market after [OJ insert date: 30 months after date of entry into force] ☺ shall be compatible with the positioning services provided by the Galileo ➔ system ☺ ➔ [...] ☺.

➔ [...] ☺

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<sup>1</sup> Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

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↓ Corrigendum, OJ L 200, 7.6.2004, p.  
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~~2. The European electronic toll service shall be brought into service pursuant to Article 3 (1). Operators shall make available to interested users on-board equipment which is suitable for use with all electronic toll systems in service in the Member States using the technologies referred to in paragraph 1 and which is suitable for use in all types of vehicle, in accordance with the timetable set out in Article 3(4). This equipment shall at least be interoperable and capable of communicating with all the systems operating in the Member States using one or more of the technologies listed in paragraph 1 Annex IV.~~

~~The detailed arrangements in this respect shall be determined by the Committee referred to in Article 5(1), including arrangements for the availability of on-board equipment to meet the demand of interested users.~~

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↓ new  
↻ Council

4. The ↻ [...] ↻ ↻ OBE ↻ may use its own hardware and software, use elements of other hardware and software present in the vehicle, or both. For the purpose of communicating with other hardware systems present in the vehicle, the ↻ [...] ↻ ↻ OBE ↻ may use technologies other than those listed in ↻ [...] ↻ ↻ the first subparagraph of paragraph 1, provided that security, quality of service and privacy are ensured ↻.

↻ EETS OBE is allowed to facilitate other services than tolling, provided that the operation of such services does not interfere with the toll services in any EETS domain. ↻

5. ~~Without prejudice to the right of Member States to introduce electronic road toll systems for light-duty vehicles based on satellite positioning or mobile communications [...], EETS providers may provide until 31 December 2027 users of light-duty vehicles with [...], OBE suitable for use only with the 5.8 GHz microwave technology to be used in EETS domains which do not require satellite positioning or mobile communications technologies.~~

↓ Corrigendum, OJ L 200, 7.6.2004, p. 50 (adapted)  
⇒ new  
⇒ Council

~~3. It is recommended that new electronic toll systems brought into service after the adoption of this Directive use the satellite positioning and mobile communications technologies listed in paragraph 1. In respect of the possible migration to systems using such technologies by systems using other technologies, the Commission, in liaison with the Committee referred to in Article 5(1), shall draw up a report by 31 December 2009. This report shall include a study of use of each of the technologies referred to in paragraph 1, as well as a cost-benefit analysis. If appropriate, the Commission shall accompany the report with a proposal to the European Parliament and the Council for a migration strategy.~~

~~4. Without prejudice to paragraph 1, on-board equipment may also be suitable for other technologies, on condition that this does not lead to an additional burden for users or create discrimination between them. Where relevant, on-board equipment may also be linked to the vehicle's electronic tachograph.~~

~~5. Where Member States have toll systems, they shall take the necessary measures to increase the use of electronic toll systems. They shall endeavour to ensure that, by 1 January 2007 at the latest, at least 50 % of traffic flow in each toll station can use electronic toll systems. Lanes used for electronic toll collection may also be used for toll collection by other means, with due regard to safety.~~

~~6. Interoperability work on existing toll technologies undertaken in connection with the European electronic toll service shall ensure the full compatibility and interfacing of those technologies with the technologies referred to in paragraph 1 and of their equipment with each other.~~

~~☞ [...] ☞~~

### ~~Article 3~~

#### ~~Setting up of a European electronic toll service~~

~~1. A European electronic toll service shall be set up which encompasses all the road networks in the Community on which tolls or road usage fees are collected electronically. This electronic toll service will be defined by a contractual set of rules allowing all operators and/or issuers to provide the service, a set of technical standards and requirements and a single subscription contract between the clients and the operators and/or issuers offering the service. This contract shall give access to the service on the whole of the network and subscriptions shall be available from the operator of any part of the network and/or from the issuer.~~

~~4. Where Member States have national systems of electronic toll collection, they shall ensure that operators and/or issuers offer the European electronic toll service to their customers in accordance with the following timetable:~~

~~(a) for all vehicles exceeding 3,5 tonnes and for all vehicles which are allowed to carry more than nine passengers (driver + 8), at the latest three years after the decisions on the definition of the European electronic toll service, as referred to in Article 4(4), have been taken;~~

~~(b) for all other types of vehicle, at the latest five years after the decisions on the definition of the European electronic toll service, as referred to in Article 4(4), have been taken;~~

↓ 219/2009 Art. 1 and Annex .7(7)

~~2. Where appropriate, the Annex may be adapted for technical reasons. 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 5(2).~~

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50 (adapted)  
↻ Council

↓ 219/2009 Art. 1 and Annex .7(7)

~~4. The decisions relating to the definition of the European electronic toll service shall be taken by the Commission. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 5(2). Such decisions shall only be taken if all the conditions, evaluated on the basis of appropriate studies, are in place to enable interoperability to work from all points of view, including technical, legal and commercial conditions.~~

~~5. Technical decisions relating to the realisation of the European electronic toll service shall be taken by the Commission. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 5(2).~~

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↓ Corrigendum, OJ L 200, 7.6.2004, p.

50 (adapted)

⇒ new

↻ Council

↻ [...] ↻

## ➔ **CHAPTER II**

### **GENERAL PRINCIPLES OF EETS**

#### **Article 4**

##### **Registration of EETS providers**

Each Member State shall establish a procedure for registering EETS providers. It shall grant the registration to entities which are established on its territory, which request registration and which can demonstrate the fulfilment of the following requirements:

- (a) hold EN ISO 9001 certification or equivalent;
- (b) demonstrate having the technical equipment and the EC declaration or certificate attesting the conformity of the interoperability constituents to specifications;
- (c) demonstrate competence in the provision of electronic toll services or in other relevant domains;
- (d) have appropriate financial standing;
- (e) maintain a global risk management plan, which is audited at least every two years;
- (f) be of good repute.

## Article 4a

### **Obligations of EETS providers**

1. Member States shall take the necessary measures to ensure that EETS providers whom they have registered conclude EETS contracts covering all EETS domains on the territories of at least four Member States within 36 months following their registration. They shall take the necessary measures to ensure that those EETS providers conclude contracts covering all EETS domain in a given Member State within 24 months from concluding the first contract in that Member State, except for those EETS domains in which the responsible Toll Chargers do not comply with the provisions of Article 4b(3).
2. Member States shall take the necessary measures to ensure that EETS providers whom they have registered maintain at all times the coverage of all EETS domains once they have concluded contracts therefor. They shall take the necessary measures to ensure that, where an EETS provider is not able to maintain coverage of an EETS domain because the Toll Charger does not comply with the provisions of Articles 4b(2) or 4j(3), it re-establishes the coverage of the concerned domain as soon as possible.
3. Member States shall take the necessary measures to ensure that EETS providers whom they have registered publish information on their EETS domains coverage and any changes thereto.

4. Member States shall take the necessary measures to ensure that, where necessary, EETS providers whom they have registered, or who provide the EETS on their territory, provide EETS users with OBE which fulfils the relevant technical requirements laid down in this Directive and in the acts referred to in Articles 4i(4) and 4j(7), as well as in Directive 2014/53/EU of the European Parliament and of the Council<sup>1</sup> and Directive 2014/30/EU of the European Parliament and of the Council<sup>2</sup>. They may request from concerned EETS providers evidence that those requirements are fulfilled.
7. Member States shall take the necessary measures to ensure that EETS providers who provide the EETS on their territory keep lists of invalidated OBE related to their EETS contracts with the EETS users. They shall take the necessary measures to ensure that such lists are maintained in strict compliance with the Union rules on the protection of personal data as set out, inter alia, in Regulation (EU) 2016/679 and Directive 2002/58/EC.
8. Member States shall take the necessary measures to ensure that EETS providers whom they registered make public their contracting policy towards EETS users.
10. Member States shall take the necessary measures to ensure that EETS providers who provide the EETS on their territory provide Toll Chargers with the information they need to calculate and apply the toll on the vehicles of EETS users or provide Toll Chargers with all necessary information to allow them to verify the calculation of applied toll on the vehicles of EETS users by the EETS providers

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<sup>1</sup> Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of radio equipment and repealing Directive 1999/5/EC (OJ L 153, 22.5.2014, p. 62).

<sup>2</sup> Directive 2014/30/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to electromagnetic compatibility (OJ L 96, 29.3.2014, p. 79).

12. Member States shall take the necessary measures to ensure that EETS providers who provide the EETS on their territory cooperate with Toll Chargers in their efforts to identify suspected offenders. Member States shall take the necessary measures to ensure that, where a failure by a road user to pay a road fee is suspected, the Toll Charger is able to obtain from the EETS provider the data relating to the vehicle involved in the suspected failure to pay a road fee and to the owner or holder of that vehicle who is a client of this EETS provider. Such data shall be made available instantly by the EETS provider.

Member States shall take the necessary measures to ensure that the Toll Charger does not disclose such data to any other toll service provider. They shall take the necessary measures to ensure that, where the Toll Charger is integrated with a toll service provider in one entity, the data is used for the sole purpose of identifying suspected offenders, or in accordance with Article 8(2a).

13. Member States shall take the necessary measures to ensure that a Toll Charger responsible for an EETS domain on their territory is able to obtain from an EETS provider data relating to all vehicles owned or held by clients of the provider, which have, in a given period of time, driven on the EETS domain for which the Toll Charger is responsible, as well as data relating to the owners or holders of these vehicles, in as much as the Toll Charger needs this data to comply with its obligations towards tax authorities. Member States shall take the necessary measures to ensure that the EETS provider provides the requested data no later than two days after receiving the request. They shall take the necessary measures to ensure that the Toll Charger does not disclose such data to any other toll service provider. They shall take the necessary measures to ensure that, where the Toll Charger is integrated with a toll service provider in one entity, the data is used for the sole purpose of the Toll Charger complying with its obligations towards tax authorities.

14. The data provided by EETS providers to Toll Chargers shall be treated in compliance with Union rules on the protection of personal data as set out in Regulation (EU) 2016/679, as well as the national laws, regulations or administrative provisions transposing Directives 2002/58/EC and 2016/680.

17. The Commission shall adopt implementing acts, at the latest by [6 months after the entry into force of this Directive], to further define the obligations of the EETS providers regarding:

- the modalities of the publication referred to in paragraph 3;
- monitoring the performance of their service level, and cooperation with Toll Chargers in verification audits;
- cooperation with Toll Chargers in the performance of Toll Chargers' systems' tests;
- service and technical support to EETS users and personalisation of on-board equipment;
- the invoicing of EETS users;
- the information which EETS providers must provide to Toll Chargers and which is referred to in paragraph 10;
- informing the EETS user of a detected toll non-declaration situation;

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11a(2).

**Rights and obligations of Toll Chargers**

1. Where an EETS domain does not comply with the technical and procedural EETS interoperability conditions set out by this Directive, the Member State on whose territory lies the EETS domain shall take the necessary measures to ensure that the responsible Toll Charger assesses the problem with the involved stakeholders and, if within its sphere of responsibilities, takes remedial actions in view to ensure EETS interoperability of the toll system. Where necessary, the Member State shall update the register referred to under Article 4o(1)(a).
  
2. Each Member States shall take the necessary measures to ensure that any Toll Charger responsible for an EETS domain on the territory of that Member State develops and maintains an EETS domain statement setting out the general conditions for EETS providers for accessing their EETS domains, in accordance with the act referred to in paragraph 11.

Where a new electronic toll collection system is created on the territory of a Member State, that Member State shall take the necessary measures to ensure that the future Toll Charger responsible for the system publishes the EETS domain statement with sufficient notice to allow for an accreditation of interested EETS providers at the latest one month before the operational launch of the new system, with due regard to the length of the process of assessment of the conformity to specifications and of the suitability for use of interoperability constituents referred to in Article 4j(3).

Where an electronic toll collection system on the territory of a Member State is substantially modified, that Member State shall take the necessary measures to ensure that the Toll Charger responsible for the system publishes the revised EETS domain statement with sufficient notice to allow already accredited EETS providers to adapt their interoperability constituents to the new requirements and obtain re-accreditation where required at the latest one month before the operational launch of the modified system, with due regard to the length of the process of assessment of the conformity to specifications and of the suitability for use of interoperability constituents referred to in Article 4j(3).

3. Member States shall take the necessary measures to ensure that Toll Chargers responsible for EETS domains on their territory accept on a non-discriminatory basis any EETS provider requesting to provide EETS on the said EETS domain(s).

If a Toll Charger and an EETS provider cannot reach an agreement, the matter may be referred to the Conciliation Body responsible for the relevant toll domain.

4. Each Member State shall take the necessary measures to ensure that the contracts between the Toll Charger and the EETS provider, regarding the provision of EETS on the territory of that Member State, permit that the invoice for the toll is issued to the EETS user directly by the EETS provider. Member States may allow the Toll Charger to require that the EETS provider invoices the user in the name and on behalf of the Toll Charger.

6. The toll charged by Toll Chargers to EETS users shall not exceed the corresponding national or local toll. This is without prejudice to the right of Member States to introduce rebates or discounts to promote the use of electronic toll payments. All OBE user rebates or discounts on tolls offered by a Member State or by a Toll Charger shall be transparent, publicly announced and available under the same conditions to clients of EETS providers.
7. Member States shall take the necessary measures to ensure that Toll Chargers accept on their EETS domains any operational OBE from EETS providers with whom they have contractual relationships which have been certified in accordance with the procedure defined in the act referred to in Article 4j(8) and which do not appear on a list of invalidated OBE referred to in Article 4a(7).
10. Member States shall take the necessary measures to ensure that Toll Chargers collaborate in a non-discriminatory way with EETS providers or manufacturers or notified bodies with a view to assessing the suitability for use of interoperability constituents on their toll domains.
11. The Commission shall adopt implementing acts, at the latest by [6 months after the entry into force of this Directive], to lay down the minimum content of the EETS domain statement, including:
- the requirements towards EETS providers
  - the procedural conditions including commercial conditions
  - the procedure of accreditation of EETS providers, and
  - the toll context data.
- Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11a(2).

12. The Commission shall adopt implementing acts, at the latest by [6 months after the entry into force of this Directive], to further define the obligations of the Toll Chargers regarding:

- the acceptance of EETS providers in the EETS domains under their responsibility;
- the measures to be taken in the event of an EETS dysfunction attributable to the Toll Charger

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11a(2).

#### Article 4c

#### **Remuneration**

1. Member States shall take the necessary measures to ensure that EETS providers are entitled to remuneration by the Toll Charger.
2. Member States shall take the necessary measures to ensure that the methodology for defining the remuneration of the EETS providers is transparent and the same for all EETS providers accredited to a given EETS domain. They shall take the necessary measures to ensure that the methodology is published as part of the commercial conditions in the EETS Domain Statement.
3. Member States shall take the necessary measures to ensure that in EETS domains with a main service provider, the methodology for calculating the remuneration of EETS providers follows the same structure as the remuneration of comparable services provided by the main service provider. The amount of remuneration of EETS providers may differ from the remuneration of the main service provider in as much as it is justified by:

- (a) the cost of specific requirements and obligations of the main service provider and not of the EETS providers;
- (b) the need to deduct from the remuneration of EETS providers the fixed charges imposed by the Toll Charger based on the costs, for the Toll Charger, to provide, operate and maintain an EETS compliant system in its toll domain, including costs of accreditation, where such costs are not included in the toll.

#### Article 4d

#### **Tolls**

1. Member States shall take the necessary measures to ensure that where, for the purpose of establishing the toll tariff applicable to a given vehicle, there is discrepancy between the vehicle classification used by the EETS provider and the Toll Charger, the Toll Charger's classification prevails, unless an error can be demonstrated.
2. Member States shall take the necessary measures to ensure that the Toll Charger is entitled to require from an EETS provider payment for any substantiated toll declaration and any substantiated toll non-declaration relative to any user account managed by that EETS provider.
3. Member States shall take the necessary measures to ensure that where an EETS provider has sent a Toll Charger a list of invalidated OBE referred to in Article 4a(7), the EETS provider shall not be held liable for any further toll incurred through the use of such invalidated OBE. The number of entries in the list of invalidated OBE, the list's format and its updating frequency shall be agreed between Toll Chargers and EETS providers.

4. Member States shall take the necessary measures to ensure that in microwave-based toll systems Toll Chargers communicate substantiated toll declarations to EETS providers for tolls incurred by their respective EETS users.
5. The Commission shall adopt implementing acts, at the latest by [6 months after the entry into force of this Directive], to lay down the details for the classification of vehicles for the purposes of establishing the applicable tariff schemes, including any procedures necessary for establishing such schemes. The set of vehicle classification parameters to be supported by EETS shall not restrict the choice of tariff schemes by Toll Chargers. The Commission shall ensure sufficient flexibility to allow the set of classification parameters to be supported by EETS to evolve according to foreseeable future needs. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11a(2).

#### *Article 4e*

#### **Accounting**

Member States shall take the necessary measures to ensure that legal entities which provide toll services keep accounting records which allow for a clear distinction of the costs and revenues related to the toll service provision from the costs and revenues related to other activities. The information on the costs and revenues related to the toll service provision shall be provided, upon request, to the relevant Conciliation Body or judicial body. Member States shall also take the necessary measures to ensure that cross subsidies between the activities performed in the role of toll service provider and other activities are excluded.

Article 4f

**Rights and obligations of EETS users**

1. Member States shall take the necessary measures to allow EETS users to subscribe to EETS through any EETS provider, regardless of nationality, Member State of residence or the Member State in which the vehicle is registered. When entering into a contract, EETS users shall be duly informed in accordance with Regulation 2016/679/EU about the processing of their personal data and the rights stemming from applicable legislation on the protection of personal data.
  
  6. The payment of a toll by an EETS user to its EETS provider shall be deemed to fulfil the EETS user's payment obligations towards the relevant Toll Charger.
  
  7. The Commission shall adopt implementing acts, at the latest by [6 months after the entry into force of this Directive], to further define the obligations of the EETS users regarding:
    - the provision of data to the EETS provider;
  
    - the use and handling of the OBE.
- Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11a(2).

## **CHAPTER III**

### **CONCILIATION BODY**

#### **Article 4g**

#### **Establishment and functions**

1. Each Member State with at least one EETS domain shall designate or establish a Conciliation Body in order to facilitate mediation between Toll Chargers with an EETS domain located within its territory and EETS providers which have contracts or are in contractual negotiations with those Toll Chargers.
2. The Conciliation Body shall be empowered, in particular, to verify that the contractual conditions imposed by a Toll Charger on EETS providers are non-discriminatory. It shall be empowered to verify that the EETS is remunerated in line with the principles provided for in Article 4c.
3. The Member States referred to in paragraph 1 shall take the necessary measures to ensure that their Conciliation Body is independent in its organisation and legal structure from the commercial interests of Toll Chargers and toll service providers.

#### **Article 4ga**

#### **Mediation procedure**

1. Each Member State referred to in Article 4g(1) shall lay down a mediation procedure in order to enable a Toll Charger or an EETS provider to request the relevant Conciliation Body to intervene in any dispute relating to their contractual relations or negotiations.
2. The procedure referred to in paragraph 1 shall foresee that the Conciliation Body states within a period of one month following the receipt of a request for it to intervene whether all documents necessary for the mediation are in its possession.

3. The procedure referred to in paragraph 1 shall foresee that the Conciliation Body issue its opinion on a dispute no later than six months after receipt of the request for it to intervene.
4. In order to facilitate its tasks, Member States shall empower the Conciliation Body to request relevant information from Toll Chargers, EETS providers and any third parties active in the provision of EETS within the Member State concerned.
5. The Member States referred to in Article 4g(1) and the Commission shall take the necessary measures to encourage the exchange of information between the Conciliation Bodies concerning their work, guiding principles and practices.

## **CHAPTER IV**

### **TECHNICAL PROVISIONS**

#### **Article 4h**

##### **Single continuous service**

Member States shall take the necessary measures to ensure that EETS is provided to EETS users as a single continuous service, in particular that:

- (a) once the vehicle classification parameters, including the variable ones, have been stored and/or declared no further in-vehicle human intervention is required during a journey unless there is a modification to the vehicle's characteristics;
- (b) human interaction with a particular piece of OBE stays the same whatever the EETS domain.

#### **Article 4i**

##### **Additional elements regarding EETS**

- 2a. Member States shall take the necessary measures to ensure that the interaction of EETS users with Toll Chargers as part of EETS is limited, where applicable, to the invoicing process in accordance with Article 4b(4) and to enforcement processes. Interactions between EETS users and EETS providers, or their OBE, can be specific to each EETS provider without compromising EETS interoperability.
- 3. Member States may require that toll service providers, including EETS providers, on the request of the Member States authorities, provide traffic data of their clients, subject to compliance with the applicable data protection rules. Such data may only be used by the Member States for the purpose of traffic policies and enhancing traffic management and the data shall not be used to identify the clients.

4. The Commission shall adopt, at the latest by [6 months after the entry into force of this Directive], implementing acts regarding the specifications of electronic interfaces between the interoperability constituents of Toll Chargers, EETS providers and EETS users, including where applicable the content of the messages exchanged between the actors through these interfaces . Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11a(2).

#### Article 4i

### **Interoperability constituents**

3. Where a new electronic road toll system is created on the territory of a Member State, that Member State shall take the necessary measures to ensure that the future Toll Charger responsible for the system establishes and publishes in the EETS domain statement the detailed planning of the process of assessment of the conformity to specifications and of the suitability for use of interoperability constituents, which allows for the accreditation of interested EETS providers at the latest one month before the operational launch of the new system.

Where an electronic road toll system on the territory of a Member State is substantially modified, that Member State shall take the necessary measures to ensure that the Toll Charger responsible for the system establishes and publishes in the domain statement, in addition to the elements referred to in the first subparagraph, the detailed planning of the re-assessment of the conformity to specifications and of the suitability for use of the interoperability constituents of EETS providers already accredited to the system before its substantial modification. The planning shall allow for the re-accreditation of concerned EETS providers at the latest one month before the operational launch of the modified system.

The Toll Charger shall be bound to respect its side of that planning.

4. Member States shall take the necessary measures to ensure that each Toll Charger responsible for an EETS domain on the territory of that Member States sets up a test environment in which the EETS provider or its authorised representatives may check that its OBE is suitable for use in the Toll Charger's EETS domain and obtain certification of the successful completion of the respective tests. Member States shall take the necessary measures to allow Toll Chargers to set up a single test environment for more than one EETS domain, and to allow one authorised representative to check the suitability for use of one type of OBE on behalf of more than one EETS provider.

Member States shall take the necessary measures to allow Toll Chargers to require EETS providers or their authorised representatives to cover the cost of the respective tests.

6. Member States shall not prohibit, restrict or hinder the placing on the market of interoperability constituents for use in EETS where they bear the CE marking or declaration of conformity to specifications and/or suitability for use. In particular, they shall not require checks which have already been carried out as part of the procedure for checking conformity to specifications and/or suitability for use.

7. The Commission shall adopt implementing acts, at the latest by *[6 months after the entry into force of this Directive]*, to lay down the essential requirements for interoperability constituents, including regarding safety and health, reliability and availability, environment protection, technical compatibility, security and privacy and compatibility with other interoperability constituents in the framework of the toll collection processes and EETS. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11a(2).

8. The Commission shall adopt implementing acts, at the latest by *[6 months after the entry into force of this Directive]*, to lay down the procedure to be applied by the Member States for assessing the conformity to specifications and suitability for use of interoperability constituents, including the content and format of the EC declaration.

## **CHAPTER V**

### **SAFEGUARD CLAUSES**

#### **Article 4k**

#### **Safeguard procedure**

1. Where a Member State has reason to believe that interoperability constituents bearing a CE marking and placed on the market are unlikely, when used as intended, to meet the essential requirements, it shall take all necessary steps to restrict their field of application, prohibit their use or withdraw them from the market. The Member State shall forthwith inform the Commission of the measures taken and give the reasons for its decision, stating in particular whether failure to conform is due to:
  - (a) incorrect application of technical specifications;
  - (b) inadequacy of technical specifications.
  
2. The Commission shall consult the concerned Member State, manufacturer, EETS provider or their authorised representatives established within the Union as quickly as possible. Where, following that consultation the Commission establishes that:
  - (a) the measure is justified, it shall forthwith inform the Member State concerned as well as the other Member States.
  - (b) the measure is unjustified, it shall forthwith inform the Member State concerned, as well as the manufacturer or its authorised representative established within the Union and the other Member States.
  
3. Where interoperability constituents bearing the CE marking fail to comply with interoperability requirements, the competent Member State shall require the manufacturer or its authorised representative established in the Union to restore the interoperability constituent to a state of conformity to specifications and/or suitability for use under the conditions laid down by that Member State and shall inform the Commission and the other Member States thereof.

Article 4l

**Transparency of conformity assessments**

Any decision taken by a Member State or a Toll Charger concerning the assessment of conformity to specifications or suitability for use of interoperability constituents and any decision taken pursuant to Article 4k shall set out in detail the reasons on which it is based. It shall be notified as soon as possible to the concerned manufacturer, EETS provider or their authorised representatives, together with an indication of the remedies available under the laws in force in the Member State concerned and of the time limits allowed for the exercise of such remedies.

## **CHAPTER VI**

### **ADMINISTRATIVE ARRANGEMENTS**

#### **Article 4la**

##### **Single contact office**

Each Member State with at least two EETS domains on its territory shall designate a single contact office for EETS providers. The Member State shall make public the contact details of this office, and provide them, upon request, to interested EETS providers. It shall take the necessary measures to ensure that, upon request of the EETS provider, the contact office facilitates and coordinates early administrative contacts between the EETS provider and the Toll Chargers responsible for the EETS domains on the territory of the Member State. The contact office may be a natural person, a public or a private body.

#### **Article 4m**

##### **Notified bodies**

1. Member States shall notify to the Commission and the other Member States any bodies entitled to carry out or supervise the procedure for the assessment of conformity to specifications or suitability for use referred to in the act referred to in Article 4j(8), indicating each body's area of competence, and the identification numbers obtained in advance from the Commission. The Commission shall publish in the Official Journal of the European Union the list of bodies, their identification numbers and areas of competence, and shall keep the list updated.
2. Member States shall apply the criteria provided for in the act referred to in paragraph 5 for the assessment of the bodies to be notified. Bodies meeting the assessment criteria provided for in the relevant European standards shall be deemed to meet the said criteria.

3. A Member State shall withdraw approval from a body which no longer meets the criteria provided for in the act referred to in paragraph 5. It shall forthwith inform the Commission and the other Member States thereof.
4. Where a Member State or the Commission considers that a body notified by another Member State does not meet the criteria provided for in the act referred to in paragraph 5, the matter shall be referred to the Electronic Toll Committee, which shall deliver its opinion within three months. In the light of the opinion of the Committee, the Commission shall inform the Member State which notified the body in question of any changes that are necessary for the notified body to retain the status conferred upon it.
5. The Commission shall adopt implementing acts, at the latest by [6 months after the entry into force of this Directive], to lay down the minimum criteria of eligibility for notified bodies. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11a(2).

#### Article 4n

### **Coordination Group**

A Coordination Group of the bodies notified under Article 4m(1) ('the Coordination Group') shall be set up as a working group of the Electronic Toll Committee, in accordance with the Committee's Rules of Procedure.

#### Article 4o

### **Registers**

1. For the purposes of the implementation of this Directive, each Member State shall keep a national electronic register of the following:
  - (a) the EETS domains within their territory, including information relating to:

- (i) the corresponding Toll Chargers;
  - (ii) the tolling technologies employed;
  - (iii) the Toll Context Data;
  - (iv) the EETS domain statement; and
  - (v) the EETS providers having EETS contracts with the Toll Chargers active in their area of competence.
- (b) the EETS providers to whom it has granted registration according to Article 4.

The register shall also contain the conclusions of the audit referred to foreseen in point (e) of Article 4. A Member State shall not be held liable for the actions of the EETS providers mentioned in its register.

2. Member States shall take the necessary measures to ensure that all the data contained in the national electronic register is kept up-to-date and is accurate.
3. The registers shall be electronically accessible to the public.
4. These registers shall be available as of [30 months after the entry into force of this Directive].
6. The Commission shall adopt implementing acts, at the latest by [6 months after the entry into force of this Directive], to lay down the modalities for updating, verifying and sharing with the Commission and other Member States the content of the national electronic registers. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11a(2).

## **CHAPTER VII**

### **PILOT SYSTEMS**

#### **Article 4p**

##### **Pilot toll systems**

1. To allow for EETS technical development Member States may temporarily run, on limited parts of their EETS domains and in parallel to the EETS compliant system, pilot toll systems incorporating new technologies or new concepts which do not comply with one or more provisions of this Directive.
3. EETS providers shall not be required to participate in pilot toll systems, unless it is essential for the testing of the pilot toll system.
4. Before starting a pilot toll system, the concerned Member State shall request the authorisation of the Commission. The Commission shall issue the authorisation or refuse it, in the form of a Decision, within 6 months from the moment it received the request. The Commission may refuse the authorisation if the pilot may bring prejudice to the correct functioning of the regular electronic road toll system or of the EETS. The initial period of such authorisation shall not exceed three years.

## **CHAPTER VIII**

### **EXCHANGE OF INFORMATION ON THE FAILURE TO PAY ROAD FEES**

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 new

 Council

#### *Article 5*

#### **Procedure for the exchange of information between Member States**

1.  In order to allow the identification of the vehicle and the owner or holder of the vehicle for which a failure to pay a road fee was established, each  Member State shall grant other Member States' national contact points access to the following national vehicle registration data, with the power to conduct automated searches thereon:
  - (a) data relating to vehicles; and
  - (b) data relating to the owners or holders of the vehicle.

The data elements referred to in points (a) and (b) which are necessary to conduct an automated search shall be in compliance with Annex II.

2. For the purposes of the exchange of data referred to in paragraph 1, each Member State shall designate a national contact point. ➡ Member States shall take the necessary measures to ensure that the exchange of information between Member States take place only between the national contact points. ☹ The powers of the national contact points shall be governed by the applicable law of the Member State concerned.

3. When conducting an automated search in the form of an outgoing request, the national contact point of the Member State in whose territory there was a failure to pay a road fee shall use a full registration number.

Those automated searches shall be conducted in compliance with the procedures referred to in points 2 and 3 of Chapter 3 of the Annex to Council Decision 2008/616/JHA<sup>1</sup> and with the requirements of Annex II to this Directive.

The Member State in whose territory there was a failure to pay a road fee shall use the data obtained in order to establish who is liable for the failure to pay that fee.

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<sup>1</sup> Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 12).

4. Member States shall take [...] the necessary measures to ensure that the exchange of information is carried out [...] using the European Vehicle and Driving Licence Information System (Eucaris) software application and amended versions of this software, in compliance with Annex II to this Directive and with points 2 and 3 of Chapter 3 of the Annex to Decision 2008/616/JHA.
5. Each Member State shall bear its own costs arising from the administration, use and maintenance of the software applications referred to in paragraph 4.

## Article 6

### Information letter on the failure to pay a road fee

1. The Member State in whose territory there was a failure to pay a road fee shall decide whether or not to initiate follow-up proceedings in relation to the failure to pay a road fee.

Where the Member State in whose territory there was a failure to pay a road fee decides to initiate such proceedings, that Member State shall, in accordance with its national law, inform the owner, the holder of the vehicle or the otherwise identified person suspected of failing to pay the road fee. This information shall, as applicable under national law, include the legal consequences thereof within the territory of the Member State in which there was a failure to pay a road fee under the law of that Member State.

2. When sending the information letter to the owner [...] or the holder of the vehicle or to the otherwise identified person suspected of failing to pay the road fee, the Member State in whose territory there was a failure to pay a road fee shall, in accordance with its national law, include any relevant information, notably the nature of the failure to pay the road fee, the place, date and time of the failure to pay the road fee, the title of the texts of the national law infringed and the sanction and, where appropriate, data concerning the device used for detecting the [...] failure. For that purpose, the Member State in whose territory there was a failure to pay a road fee may use the template set out in Annex III.

3. Where the Member State in whose territory there was a failure to pay a road fee decides to initiate follow-up proceedings in relation to the failure to pay a road fee, it shall, for the purpose of ensuring the respect of fundamental rights, send the information letter in the language of the registration document of the vehicle, if available, or in one of the official languages of the Member State of registration.

#### *Article 7*

#### **Reporting by Member States to the Commission**

Each Member State shall send a comprehensive report to the Commission by [4 years after the entry into force of this Directive] and every  [...]  four  years thereafter.

The comprehensive report shall indicate the number of automated searches conducted by the Member State in whose territory there was a failure to pay a road fee addressed to the national contact point of the Member State of registration, following failures to pay road fees  [...]  occurred  on its territory, together with  [...]  the number of failed requests.

The comprehensive report shall also include a description of the situation at national level in relation to the follow-up concerning the failures to pay road fees, based on the proportion of such failures to pay road fees which have been followed up by information letters.

## Article 8

### Data protection

1. The provisions of Regulation (EU) 2016/679 and the national laws, regulations or administrative provisions transposing  $\Rightarrow$  Directives 2002/58/EC and  $\Leftarrow$  (EU) 2016/680 shall apply to personal data processed under this Directive.
2. Member States shall  $\Rightarrow$  take the necessary measures to  $\Leftarrow$  ensure that personal data processed under this Directive are, within an appropriate time period, rectified if inaccurate, or erased or restricted, and that a time limit for the storage of data is established in accordance with Regulation (EU) 2016/679 and the national laws, regulations or administrative provisions transposing Directive (EU) 2016/680.

Member States shall  $\Rightarrow$  take the necessary measures to  $\Leftarrow$  ensure that  $\Rightarrow$  [...]  $\Leftarrow$  personal data processed under this Directive are  $\Rightarrow$  [...]  $\Leftarrow$  used for the purposes of  $\Rightarrow$  [...]  $\Leftarrow$ :

- $\Rightarrow$  (a) identify suspected offenders in view of the obligation to pay road fees within the scope of Article 4a(12);
- (b) ensuring the compliance of the Toll Charger as regards its obligations towards tax authorities within the scope of Article 4a(13); and
- (c) identification of the vehicle and the owner or holder of the vehicle for which a failure to pay a road fee was established within the scope of Articles 5 and 6.  $\Leftarrow$

➤ Member States shall also take the necessary measures to ensure ◀ that the data subjects have the same rights to information, access, rectification, erasure and blocking, compensation and judicial redress as provided for in Regulation (EU) 2016/679 and the national laws, regulations or administrative provisions transposing Directive (EU) 2016/680.

➤ 2a. This Article shall not affect the possibility of Member States to restrict the scope of the obligations and rights provided for in certain provisions of Regulation (EU) 2016/679 in accordance with Article 23 of that Regulation for the purposes listed in the first paragraph of that Article. ◀

3. Any person concerned shall have the right to obtain information on which personal data recorded in the Member State of registration were transmitted to the Member State in which there was a failure to pay a road fee, including the date of the request and the competent authority of the Member State in whose territory there was a failure to pay a road fee.

⇒ **CHAPTER IX**

**FINAL PROVISIONS** ⇐

Article 9

**Report**

⇒ [...] ⇐

1. By [4 years after the entry into force of this Directive], the Commission shall present a report to the European Parliament and to the Council on the implementation and effects of this Directive, in particular as regards the advancement and deployment of the EETS and the effectiveness and efficiency of the mechanism for the exchange of data in the framework of the investigation of events of failure to pay road fees. The report shall analyse in particular the following:

(a) the effect of the provisions of Article 4a(1) and (2) on the deployment of EETS, with a particular focus on the availability of the service in small or peripheral EETS domains;

(b) the effectiveness of Articles 5 and 6 on the reduction in the number of failures to pay road fees in the Union.

2. The report shall be accompanied, if appropriate, by a proposal to the European Parliament and the Council for further revision of this Directive, regarding notably the following elements:

(a) additional measures to ensure that the EETS is available in all EETS domains, including small and peripheral ones;

(b) measures to further facilitate the cross-border enforcement of the payment of road fees in the Union. ☹

#### *Article 10*

#### **Delegated acts**

☞ [...] ☹

☞ The Commission is empowered to adopt delegated acts, in accordance with Article 11, updating Annex II to take into account any relevant amendments to be made to Council Decisions 2008/615/JHA and 2008/616/JHA or where this is required by any other relevant Union acts. ☹

#### *Article 11*

#### **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 power to adopt delegated acts referred to in Article 10 shall be conferred on the Commission for a period of five years [...] from [the entry into force of this Directive]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 10 may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 10 shall enter into force only if no objection has been expressed either by the European Parliament or by 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 of the Council.

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↓ 219/2009 Art. 1 and Annex .7(7)  
↻ Council

~~Article 5~~

~~Committee procedure~~

~~1. The Commission shall be assisted by an Electronic Toll Committee.~~

~~2. 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.~~

↻ Article 11a

Committee procedure

1. The Commission shall be assisted by the Electronic Toll Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. ↻

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↓ Corrigendum, OJ L 200, 7.6.2004, p.  
50 (adapted)  
↻ Council

Article 6 12

~~Implementation~~ ☒ Transposition ☒

↻ [...] ↻

1. Member States shall adopt and publish, by [30 months after the entry into force of this Directive], the laws, regulations and administrative provisions necessary to comply with Articles 1 and 3 to 8 and Annexes II and III. They shall immediately communicate the text of those measures to the Commission.

They shall apply those measures from [30 months after the entry into force of this Directive].

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

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. ↻

↻ [...] ↻

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↓ new

### Article 13

#### **Repeal**

Directive 2004/52/EC is repealed with effect from [the day after the date in the first subparagraph of Article 12(1)], without prejudice to the obligations of the Member States relating to the time-limit for the transposition into national law of the Directive set out in Annex V, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex VI.

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50 (adapted)

### Article ~~7~~ 14

#### **Entry into force**

This Directive shall enter into force on the ~~20<sup>th</sup>~~  twentieth  day following that of its publication in the *Official Journal of the European Union*.

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↓ Corrigendum, OJ L 200, 7.6.2004, p. 50
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Article ~~8~~ 15

### **Addressees**

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*

*The President*

*t*

*For the Council*

*The Presiden*

↓ Corrigendum, OJ L 200, 7.6.2004, p. 50  
(adapted)  
↻ Council

↻ [...] ↻

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↓ new  
↻ Council

**ANNEX II**

Data elements necessary to conduct the automated search referred to in Article ↻ 5 ↻ (1)

Item	M/O <sup>1</sup>	Remarks
Data relating to the vehicle	M	
Member State of registration	M	
Registration number	M	(A <sup>2</sup> )
Data relating to the failure to pay a road fee	M	
Member State in whose territory there was a failure to pay a road fee	M	
Reference date of the 🔄 [...] 🔄 🔄 occurrence 🔄	M	
Reference time of the 🔄 [...] 🔄 🔄 occurrence 🔄	M	

<sup>1</sup> M = mandatory when available in national register, O = optional.

<sup>2</sup> Harmonised code, see Council Directive 1999/37/EC of 29 April 1999 on the registration documents for vehicles (OJ L 138, 1.6.1999, p. 57).

**DATA ELEMENTS PROVIDED AS A RESULT OF THE AUTOMATED SEARCH CONDUCTED PURSUANT TO****ARTICLE 5 (1)****Part I. Data relating to vehicles**

Item	M/O <sup>1</sup>	Remarks
Registration number	M	
Chassis number/VIN	M	
Member State of registration	M	
Make	M	(D.1 <sup>2</sup> ) e.g. Ford, Opel, Renault
Commercial type of the vehicle	M	(D.3) e.g. Focus, Astra, Megane
EU Category Code	M	(J) e.g. mopeds, motorbikes, cars
<b>⇒EURO emissions class</b>	<b>M</b>	<b>e.g. Euro 4, EURO 6</b>

**Part II. Data relating to owners or holders of the vehicles**

Item	M/O <sup>3</sup>	Remarks
Data relating to holders of the vehicle		(C.1 <sup>4</sup> ) 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.

<sup>1</sup> M = mandatory when available in national register, O = optional.

<sup>2</sup> Harmonised code, see Directive 1999/37/EC.

<sup>3</sup> M = mandatory when available in national register, O = optional.

<sup>4</sup> Harmonised code, see Directive 1999/37/EC.

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.
Address	M	(C.1.3) 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.
Gender	O	Male, female
Date of birth	M	
Legal entity	M	Individual, association, company, firm, etc.
Place of Birth	O	
ID Number	O	An identifier that uniquely identifies the person or the company.
Data relating to owners of the vehicle		(C.2) The data refer to the owner of the vehicle.
Owners' (company) name	M	(C.2.1)
First name	M	(C.2.2)
Address	M	(C.2.3)
Gender	O	Male, female
Date of birth	M	
Legal entity	M	Individual, association, company, firm, etc.

Place of Birth	O	
ID Number	O	An identifier that uniquely identifies the person or the company.
		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.

↓ new

↻ Council

**ANNEX III**

**TEMPLATE FOR THE INFORMATION LETTER**

referred to in Article ↻ [...] ↻ 6 ↻

[Cover page]

[Name, address and telephone number of sender]

[Name and address of addressee]

INFORMATION LETTER

regarding the failure to pay a road fee ➡ [...] Ⓞ ➡ occurred Ⓞ in

[name of the Member State in whose territory there was a failure to pay a road fee]

Page 2

On .....a failure to pay a road fee ➡ [...] Ⓞ with the vehicle with registration [date]

number ..... make ..... model.....

was detected by .....

[name of the responsible body]

[Option 1] <sup>(1)</sup>

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

[Option 2] <sup>(1)</sup>

The holder of the registration certificate of the abovementioned vehicle indicated that you were driving that vehicle when the failure to pay a road fee was committed.

The relevant details of the failure to pay a road fee are described on page 3 below.

The amount of the financial penalty due for the failure to pay a road fee is ..... EUR/national currency.

➡ The amount of the road fee due to pay is ..... EUR/national currency. Ⓞ

Deadline for the payment is .....

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

This letter shall be processed in accordance with the national law of .....

[name of the Member State in whose territory there was a failure to pay a road fee].

Relevant details concerning the failure to pay a road fee

(a) Data concerning the vehicle which was used in the failure to pay a road fee:

Registration number: .....  
Member State of registration: .....  
Make and model: .....

(b) Data concerning the failure to pay a road fee:

Place, date and time where the failure to pay a road fee occurred:

.....  
.....  
.....  
.....

Nature and legal classification of the failure to pay a road fee:

.....  
.....  
.....  
.....

Detailed description of the failure to pay a road fee:

.....  
.....  
.....

Reference to the relevant legal provision(s):

.....  
.....  
.....

Description of or reference to the evidence regarding the failure to pay a road fee:

.....  
.....  
.....

(c) Data concerning the device that was used for detecting the failure to pay a road fee (2):

Specification of the device:

[Redacted area with dotted lines]

Identification number of the device:

[Redacted area with dotted lines]

Expiry date for the last gauging:

[Redacted area with dotted lines]

(1) Delete if not applicable.

(2) Not applicable if no device has been used.

(please complete using block capitals)

A. Identity of the driver:

— Full name:

[Redacted area with dotted lines]

— Place and date of birth:

[Redacted area with dotted lines]

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

— Address:.....  
[Redacted area with dotted lines]

B. List of questions:

1. Is the vehicle, make \_\_\_\_\_, registration number \_\_\_\_\_, registered in

your name? ..... yes/no (1)

If not, the holder of the registration certificate is: .....

(name, first name, address)

2. Do you acknowledge that you failed to pay a road fee? yes/no (1)

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

.....  
.....  
.....

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

at the following address .....

INFORMATION

This case will be examined by the competent authority of .....

[name of the Member State in whose territory there was a failure to pay a road fee]

If this case is not pursued, you will be informed within 60 days after receipt of the reply form.



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⤵ Council

↻ Council

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## ANNEX V

### Part A

Repealed Directive with the amendment thereto  
(referred to in Article 13)

Directive 2004/52/EC of the European Parliament and of the Council	OJ L 166, 30.4.2004, p. 124
Regulation (EC) No 219/2009 of the European Parliament and of the Council	OJ L 87, 31.3.2009, p. 109

### Part B

Time-limit for transposition into national law  
(referred to in Article 13)

Directive	Time-limit for transposition
Directive 2004/52/EC	20 November 2005

## ANNEX VI

### Correlation Table

Directive 2004/52/EC	This Directive
Article 1(1)	Article 1(1), first subparagraph
—	Article 1(1), second subparagraph
Article 1(2), introductory wording	Article 1(2), introductory wording
Article 1(2)(a)	Article 1(2)(a)
Article 1(2)(b)	—
Article 1(2)(c)	Article 1(2)(b)
—	Article 1(2)(c)
Article 1(3)	Article 1(3)
—	Article 2
Article 2(1)	Article 3(1), first subparagraph
—	Article 3(1), second subparagraph
Article 2(2), first sentence	—
—	Article 3(2)
Article 2(2), second and third sentence	Article 3(3)
Article 2(2), fourth sentence	—
—	Article 3(4)
—	Article 3(5)
Article 2(3)	—
Article 2(4)	—
Article 2(5)	—
Article 2(6)	—

Article 2(7)	Article 3(6)
Article 3(1)	—
Article 3(2), first sentence	—
Article 3(2), second sentence	—
Article 3(2), third sentence	Article 4(2)
Article 3(3)	Article 4(3)
Article 3(4)	—
Article 4(1)	Article 4(1)
Article 4(2)	—
Article 4(3)	Article 4(4)
Article 4(4)	—
Article 4(5)	—
Article 4(6)	—
Article 4(7)	Article 4(5)
Article 4(8)	Article 4(6)
Article 5	—
—	Article 5
—	Article 6
—	Article 7
—	Article 8
—	Article 9
—	Article 10
—	Article 11

Article 6	Article 12(1)
—	Article 12(2)
	Article 13
Article 7	Article 14
Article 8	Article 15
Annex	☞ [...] ☛
—	Annex II
—	Annex III
—	Annex IV
—	Annex V
—	Annex VI

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