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2014/0218 (COD)

Proposal for a

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

**facilitating cross-border exchange of information on road safety related traffic offences**

(Text with EEA relevance)

## EXPLANATORY MEMORANDUM

### **1. CONTEXT OF THE PROPOSAL**

#### **Grounds for and objectives of the proposal**

On 19 March 2008, the Commission adopted a proposal for a Directive of the European Parliament and of the Council facilitating cross-border enforcement in the field of road safety, on the basis of the transport article of the Treaty (Art. 71(1) EC Treaty, now Art. 91 TFEU). The main objective of that Directive was to put an end to the anonymity of non-resident drivers and to make sure that their road traffic offences would not go unpunished. For this reason the Directive provided the Member States with the mutual access to each other's vehicle registration data via an electronic data exchange network. This would allow them to identify drivers when they commit traffic offences abroad, thus ensuring equal treatment of non-resident and resident drivers. Once the vehicle owner's name and address are known, a letter to the presumed offender may be sent, on the basis of a model established by the Directive. The Member State of offence will have kept their right to decide on the follow up of the traffic offence.

Directive 2011/82/EU was adopted on 25 October 2011. The European Parliament and the Council chose Article 87(2) TFEU on police cooperation as its legal basis. 25 Member States had to transpose that Directive by 7 November 2013. Denmark, the United Kingdom and Ireland chose, in accordance with Protocols n° 21 and 22 annexed to the Treaties, not to adopt and apply that Directive.

The Commission fully supported the contents of the adopted Directive but decided to challenge its legal basis before the Court of Justice of the European Union. In its judgement of 6 May 2014, case C-43/12 Commission v. European Parliament and Council, the Court annulled Directive 2011/82/EU, but maintained its effects until the entry into force of a new Directive on the basis of the transport article of the Treaty within a reasonable period of time, which may not exceed twelve months from the date of delivery of the judgement.

In order to comply with the above-mentioned judgement, the Commission prepared this proposal for a new Directive based on the correct legal basis (Article 91 TFEU).

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

As was the case of the annulled Directive, this proposal is in line with EU policies on the protection of human health and the environment. It also complements Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties. The Decision sets out a mechanism for cross-border recognition and enforcement of final decisions concerning financial penalties, among others for traffic offences.

### **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

The proposal does not contain any new elements as compared to the annulled Directive. The proposed changes adapt the previous text to its new legal basis and are therefore not substantial. For this reason renewed consultation of stakeholders and an update of the impact assessment for the original Commission proposal<sup>1</sup> were not required.

Before adoption of the annulled Directive, the European Economic and Social Committee, the European Data Protection Supervisor and the Committee of the Regions were consulted.

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<sup>1</sup> [http://ec.europa.eu/smart-regulation/impact/ia\\_carried\\_out/docs/ia\\_2008/sec\\_2008\\_0351\\_2\\_en.pdf](http://ec.europa.eu/smart-regulation/impact/ia_carried_out/docs/ia_2008/sec_2008_0351_2_en.pdf)

The European Economic and Social Committee issued its opinion on 17 September 2008<sup>2</sup>. The Committee concluded that the proposal for the annulled Directive was a sound approach to dealing effectively with offences committed in another Member State. To make the Directive more effective, the list of offences was proposed to be expanded. Furthermore the Committee called on the Council and the Member States to accompany the Directive with urgent improvements on effective and efficient checks and penalties. Some of the proposed additional offences were included in the Directive that was adopted.

The European Data Protection Supervisor (EDPS) issued its opinion on 8 May 2008<sup>3</sup>. EDPS concluded that the proposal for the annulled Directive provided for sufficient justification for the establishment of the system for the cross-border exchange of information, and that it limited in an adequate way the quality of data to be collected and transferred. The EDPS gave some recommendations in order to improve the text. The EDPS had no objection to the use of an already existing infrastructure to exchange the information - as far as this limited financial or administrative burden, but insisted that this should not lead to interoperability with other databanks. Some of the proposals were included in the Directive that was adopted.

The Committee of Regions was consulted on the proposal, but decided on 17 April 2008 not to issue an opinion.

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<sup>2</sup> OJ C 77, 31.03.2009, p. 70-72

<sup>3</sup> OJ C 310, 5.12.2008 p. 9

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

#### **Summary of the proposed action**

The proposal is almost identical to the text of the annulled Directive. Only some minor changes considered strictly necessary to comply with the judgement of the Court were introduced. Therefore, the legal basis was changed, the recitals referring to the special provisions applying to the UK, Ireland and Denmark were deleted, as well as the Commission statement on the legal basis which is no more relevant. Furthermore, a change of reference as regards rules on data protection was made in recital 20 (recital 19 of the annulled Directive) and corresponding Article 7 was modified accordingly. In Article 4 the references to the Prüm Decisions have been streamlined, without changing the substance and the paragraphs 2 and 3 are reshuffled to improve the logical structure of this Article. An update of the transposition and exercise of delegation powers dates, as well as of the reporting obligations, was made. Some minor modifications were also introduced to address issues of standard legislative drafting.

#### **Legal basis**

The legal basis for the adoption of measures at EU level in the field of road safety is Article 91(1)(c) TFEU. According to this Article "(...) the Council shall, acting in accordance with the ordinary legislative procedure (...), lay down: (...) (c) measures to improve transport safety." The Court considered that this legal basis was appropriate since the examination of the content of the provisions of Directive 2011/82/EU confirmed that the system for the exchange of information between the competent authorities of the Member States set up by that Directive provided the means of pursuing the objective of improving road safety and enabled the European Union to attain that aim. It concluded that since, both in respect of its aims and its content, Directive 2011/82/EU was a measure to improve transport safety within the meaning of Article 91(1) (c) TFUE, it should have been adopted on the basis of that provision (see paragraphs 44 to 46 of the judgment).

#### **Deletion of recitals regarding UK, Ireland and Denmark**

As referred in recitals 22 and 23 of the annulled Directive, UK, Ireland and Denmark had, in accordance with Protocols no 21 and 22 annexed to the Treaties, the possibility not to take part in adoption of, be bound by or subject to the application of that Directive. However, as this proposal is based on Article 91(1)(c) TFEU, where those Protocols do not apply since they only apply to Title V of the TFEU, those recitals should be deleted.

#### **Data protection**

As the annulled Directive was adopted on the basis of Article 87(2) TFEU, the rules on data protection were based on the data protection regime under police and judicial cooperation in criminal matters as prescribed by Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters. This was also because Directive 95/46/EC does not apply to personal data processed in the course of an activity which falls within the scope of police and judicial cooperation in criminal matters, cf. Article 3(2) of that Directive.

However, this proposal is based on Article 91(1) (c) TFEU and the general rules on data protection provided for 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>4</sup> should therefore apply. Consequently, the proposal should refer to Directive 95/46/EC, both in general and for the provisions on rectification, erasure, blocking and maximum storage time as mentioned in Article 7 of the annulled Directive. There is no longer need to refer to the rules on data protection in the Prüm Decisions, since Directive 95/46/EC provides for sufficient data protection.

In light of ongoing negotiations between the co-legislators on a Commission proposal for a Regulation on Data Protection to replace Directive 95/46/EC, and depending on the time line and outcome of the procedures, a change of reference could be appropriate before the adoption of this Directive.

#### **Subsidiarity and proportionality principles**

The proposal complies with the subsidiarity and proportionality principles, in the same way as does the annulled Directive.

#### **4. BUDGETARY IMPLICATION**

There are no other budgetary implications than those already mentioned in the annulled Directive.

#### **5. OPTIONAL ELEMENTS**

##### **European Economic Area**

The proposed Directive is EEA-relevant and should therefore be extended to the European Economic Area.

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<sup>4</sup> OJ L 281, 23.11.1995, p. 31.

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**facilitating cross-border exchange of information on road safety related traffic offences**

(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, and in particular Article 91(1)(c) 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>5</sup>,

Having regard to the opinion of the Committee of the Regions<sup>6</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Improving road safety is a prime objective of the Union's transport policy. The Union is pursuing a policy to improve road safety with the objective of reducing fatalities, injuries and material damage. An important element of that policy is the consistent enforcement of sanctions for road traffic offences committed in the Union which considerably jeopardise road safety.
- (2) However, due to a lack of appropriate procedures and notwithstanding existing possibilities under Council Decision 2008/615/JHA<sup>7</sup> and Council Decision 2008/616/JHA<sup>8</sup> (the 'Prüm Decisions'), sanctions in the form of financial penalties for certain road traffic offences are often not enforced if those offences are committed with a vehicle, which is registered in a Member State

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<sup>5</sup> OJ C [...], [...], p. [...].

<sup>6</sup> OJ C [...], [...], p. [...].

<sup>7</sup> Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 1).

<sup>8</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).

other than the Member State where the offence took place. This Directive aims to ensure that even in such cases, the effectiveness of the investigation of road safety related traffic offences should be ensured.

- (3) The Commission, in its Communication of 20 July 2010 entitled 'Towards a European road safety area: policy orientations on road safety 2011-2020', emphasised that enforcement of road traffic rules remains a key factor in creating the conditions for a considerable reduction in the number of deaths and injuries. In its conclusions of 2 December 2010 on road safety, the Council called for consideration of the need for further strengthening of enforcement of road traffic rules by Member States and, where appropriate, at Union level. It invited the Commission to examine the possibilities of harmonising traffic rules at Union level where appropriate and adopting further measures on facilitating cross-border enforcement with regard to road traffic offences, in particular those related to serious traffic accidents.
- (4) On 19 March 2008, the Commission adopted a proposal for a Directive of the European Parliament and of the Council facilitating cross-border enforcement in the field of road safety on the basis of Article 71(1)(c) of the Treaty establishing the European Community (now Article 91 of Treaty on the Functioning of the European Union ('TFUE')). Directive 2011/82/EU of the European Parliament and of the Council<sup>9</sup> was however adopted on the basis of Article 87(2) TFUE. By judgement of 6 May 2014 in case C-43/12<sup>10</sup>, the European Court of Justice annulled Directive 2011/82/EU on the grounds that it could not validly be adopted on the basis of Article 87(2) TFEU. The Court maintained the effects of Directive 2011/82/EU until the entry into force within a reasonable period of time – which may not exceed twelve months as from the date of delivery of the judgement – of a new directive based on Article 91(1)(c) TFEU. Therefore a new Directive should be adopted on the basis of that Article.
- (5) Greater convergence of control measures between Member States should be encouraged and the Commission should examine in this respect the need for developing common standards for automatic checking equipment for road safety controls.
- (6) The awareness of Union citizens should be raised as regards the road safety traffic rules in force in different Member States and as regards the implementation of this Directive, in particular through appropriate measures guaranteeing the provision of sufficient information on the consequences of not respecting the road safety traffic rules when travelling in a Member State other than the Member State of registration.
- (7) In order to improve road safety throughout the Union and to ensure equal treatment of drivers, namely resident and non-resident offenders, enforcement should be facilitated irrespective of the Member State of registration of the vehicle. To this end, a system of cross-border exchange of information should be used for certain identified road safety related traffic offences, regardless of

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<sup>9</sup> Directive 2011/82/EU of the European Parliament and of the Council of 25 October 2011 facilitating the cross-border exchange of information on road safety related traffic offences (OJ L 288, 5.11.2011, p. 1).

<sup>10</sup> Judgement in *Commission v Parliament and Council*, C-43/12, EU:C:2014:298.

their administrative or criminal nature under the law of the Member State concerned, granting the Member State of the offence access to vehicle registration data (VRD) of the Member State of registration.

- (8) A more efficient cross-border exchange of VRD, which should facilitate the identification of persons suspected of committing a road safety related traffic offence, may increase the deterrent effect and induce more cautious behaviour by the driver of a vehicle that is registered in a Member State other than the Member State of the offence, thereby preventing casualties due to road traffic accidents.
- (9) The road safety related traffic offences covered by this Directive are not subject to homogeneous treatment in the Member States. Some Member States qualify such offences under national law as 'administrative' offences while others qualify them as 'criminal' offences. This Directive should apply regardless of how those offences are qualified under national law.
- (10) In the framework of the Prüm Decisions, Member States grant each other the right of access to their VRD in order to improve the exchange of information and to speed up the procedures in force. The provisions concerning the technical specifications and the availability of automated data exchange set out in the Prüm Decisions should, as far as possible, be included in this Directive.
- (11) Existing software applications should be the basis for the data exchange under this Directive and should, at the same time, also facilitate the reporting by Member States to the Commission. Such applications should provide for the expeditious, secure and confidential exchange of specific VRD between Member States. Advantage should be taken of the European Vehicle and Driving Licence Information System (Eucaris) software application, which is mandatory for Member States under the Prüm Decisions as regards VRD. The Commission should report on an assessment of the functioning of the software applications used for the purposes of this Directive.
- (12) The scope of the above-mentioned software applications should be limited to the processes used in the exchange of information between the national contact points in the Member States. Procedures and automated processes in which the information is to be used are outside the scope of such applications.
- (13) The Information Management Strategy for EU internal security aims at finding the simplest and most easily traceable and cost-effective solutions for data exchange.
- (14) Member States should be able to contact the owner, the holder of the vehicle or the otherwise identified person suspected of committing the road safety related traffic offence in order to keep the person concerned informed of the applicable procedures and the legal consequences under the law of the Member State of the offence. In doing so, Member States should consider sending the information concerning road safety related traffic offences in the language of the registration documents or the language most likely to be understood by the person concerned, to ensure that that person has a clear understanding of the information which is being shared with the person concerned. Member States should apply the appropriate procedures to ensure that only the person concerned is informed and not a third party. To that effect,



Member States should use detailed arrangements similar to those adopted for following up such offences including means such as, where appropriate, registered delivery. This will allow that person to respond to the information in an appropriate way, in particular by asking for more information, settling the fine or by exercising his/her rights of defence, in particular in the case of mistaken identity. Further proceedings are covered by applicable legal instruments, including instruments on mutual assistance and on mutual recognition, for example Council Framework Decision 2005/214/JHA<sup>11</sup>.

- (15) Member States should consider providing equivalent translation with respect to the information letter sent by the Member State of the offence, as provided for in Directive 2010/64/EU of the European Parliament and of the Council<sup>12</sup>.
- (16) With a view to pursuing a road safety policy aiming for a high level of protection for all road users in the Union and taking into account the widely differing circumstances pertaining within the Union, Member States should act, without prejudice to more restrictive policies and laws, in order to ensure greater convergence of road traffic rules and of their enforcement between Member States. In the framework of its report to the European Parliament and to the Council on the application of this Directive, the Commission should examine the need to develop common standards in order to establish comparable methods, practices and minimum standards at Union level taking into account international cooperation and existing agreements in the field of road safety, in particular the Vienna Convention on Road Traffic of 8 November 1968.
- (17) In the framework of its report to the European Parliament and to the Council on the application of this Directive by the Member States, the Commission should examine the need for common criteria for follow-up procedures by the Member States in the event of non-payment of a financial penalty, in accordance with Member States' laws and procedures. In this report, the Commission should address issues such as the procedures between the competent authorities of the Member States for the transmission of the final decision to impose a sanction and/or financial penalty as well as the recognition and enforcement of the final decision.
- (18) In preparing the review of this Directive, the Commission should consult the relevant stakeholders, such as road safety and law enforcement authorities or bodies, victims' associations and other non-governmental organisations active in the field of road safety.
- (19) Closer cooperation between law enforcement authorities should go hand in hand with respect for fundamental rights, in particular the right to respect for privacy and to protection of personal data, guaranteed by special data protection arrangements which should take particular account of the specific nature of cross-border online access to databases. It is necessary that the software applications to be set up enable the exchange of information to be carried out in secure conditions and ensure the confidentiality of the data

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<sup>11</sup> Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties (OJ L 76, 22.3.2005, p. 16).

<sup>12</sup> Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010, p. 1).

transmitted. The data gathered under this Directive should not be used for purposes other than those of this Directive. Member States should comply with the obligations on the conditions of use and of temporary storage of the data.

- (20) The processing of personal data provided by this Directive is necessary and justified by the legitimate aims pursued by this Directive in the field of road safety, namely to ensure a high level of protection for all road users in the Union by facilitating the cross-border exchange of information on road safety related traffic offences and thereby the enforcement of sanctions. It does not exceed the limits which compliance with the principle of proportionality imposes.
- (21) Data relating to the identification of an offender are personal data. Directive 95/46/EC of the European Parliament and of the Council<sup>13</sup> applies to the processing activities carried out in application of this Directive.. Without prejudice to the observance of the procedural requirements for appeal and the redress mechanisms of the Member State concerned, the data subject should be informed accordingly, when notified of the offence, of the right to access, the right to rectification and deletion of personal data as well as of the maximum legal storage period of the data and should have the right to obtain the correction of any inaccurate personal data or the immediate deletion of any data recorded unlawfully.
- (22) It should be possible for third countries to participate in the exchange of VRD provided that they have concluded an agreement with the Union to this effect. Such an agreement would have to include necessary provisions on data protection.
- (23) This Directive upholds the fundamental rights and principles recognised by the Charter of Fundamental Rights of the European Union, including the respect for private and family life, the protection of personal data, the right to a fair trial, the presumption of innocence and the right of defence. This Directive must be implemented according to these rights and principle.
- (24) In order to achieve the objective of exchange of information between Member States through interoperable means, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of taking into account relevant changes to Decisions 2008/615/JHA and 2008/616/JHA or where required by legal acts of the Union directly relevant for the update of Annex I. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (25) In accordance with the Joint Political Declaration of Member States and the Commission of 28 September 2011 on explanatory documents<sup>14</sup>, Member

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<sup>13</sup> 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 (OJ L 281, 23.11.1995, p. 31).

<sup>14</sup> OJ C 369, 17.12.2011, p. 14.

States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

- (26) Since the objective of this Directive, namely to ensure a high level of protection for all road users in the Union by facilitating the cross-border exchange of information on road safety related traffic offences, where they are committed with a vehicle registered in a Member State other than the Member State where the offence took place, cannot be sufficiently achieved by the Member States, but can rather, by reason of the scale and effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on European Union. 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 that objective.
- (27) 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>15</sup> and delivered an opinion on [...]<sup>16</sup>,

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<sup>15</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).

<sup>16</sup> [...]

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

**Objective**

This Directive aims to ensure a high level of protection for all road users in the Union by facilitating the cross-border exchange of information on road safety related traffic offences and thereby the enforcement of sanctions, where those offences are committed with a vehicle registered in a Member State other than the Member State where the offence took place.

*Article 2*

**Scope**

This Directive shall apply to the following road safety related traffic offences:

- (a) speeding;
- (b) non-use of a seat-belt;
- (c) failing to stop at a red traffic light;
- (d) drink-driving;
- (e) driving under the influence of drugs;
- (f) failing to wear a safety helmet;
- (g) use of a forbidden lane;
- (h) illegally using a mobile telephone or any other communication devices while driving.

*Article 3*

**Definitions**

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

- (a) 'vehicle' means any power-driven vehicle including motorcycles, which is normally used for carrying persons or goods by road;
- (b) 'Member State of the offence' means the Member State where the offence has been committed;
- (c) 'Member State of registration' means the Member State where the vehicle with which the offence has been committed is registered;
- (d) 'speeding' means exceeding speed limits in force in the State of offence for the road or type of vehicle concerned;
- (e) 'non-use of a seat-belt' means failing to comply with the requirement to wear a seat-belt or use a child restraint in accordance with Council

Directive 91/671/EEC<sup>17</sup> and the law of the Member State of the offence;

- (f) 'failing to stop at a red traffic light' means driving through a red traffic light or any other relevant stop signal, as defined in the law of the Member State of the offence;
- (g) 'drink-driving' means driving while impaired by alcohol, as defined in the law of the Member State of the offence;
- (h) 'driving under the influence of drugs' means driving while impaired by drugs or other substances having a similar effect, as defined in the law of the Member State of the offence;
- (i) 'failing to wear a safety helmet' means not wearing a safety helmet, as defined in the law of the Member State of the offence;
- (j) 'use of a forbidden lane' means illegally using part of a road section, such as an emergency lane, public transport lane or temporary closed lane for reasons of congestion or road works, as defined in the law of the Member State of the offence;
- (k) 'illegally using a mobile telephone or any other communication devices while driving' means illegally using a mobile telephone or any other communication devices while driving, as defined in the law of the Member State of the offence;
- (l) 'national contact point' means a designated competent authority for the exchange of VRD;
- (m) 'automated search' means an online access procedure for consulting the databases of one, several, or all of the Member States or of the participating countries;
- (n) '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.

#### *Article 4*

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

1. For the investigation of the road safety related traffic offences referred to in Article 2, the Member States shall allow other Member States' national contact points, as referred to in paragraph 2 of this Article, access to the following national VRD, with the power to conduct automated searches on:

- (a) data relating to vehicles; and
- (b) data relating to owners or holders of the vehicle.

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

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<sup>17</sup> Council Directive 91/671/EEC of 16 December 1991 relating to the compulsory use of safety belts and child-restraint systems in vehicles (OJ L 373, 31.12.1991, p. 26).

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

3. Any searches in the form of outgoing requests shall be conducted by the national contact point of the Member State of the offence using a full registration number.

Those searches shall be conducted in compliance with the procedures described in points 2 and 3 of Chapter 3 of the Annex to Decision 2008/616/JHA.

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

4. Member States shall take all necessary measures to ensure that the exchange of information is carried out by interoperable electronic means without exchange of data involving other databases. Member States shall ensure that this exchange of information is conducted in a cost efficient and secure manner and ensure the security and protection of the data transmitted, as far as possible using existing software applications such as the one referred to in Article 15 of Decision 2008/616/JHA, and amended versions of those software applications. The amended versions of the software applications shall provide for both online real-time exchange mode and batch exchange mode, the latter allowing for the exchange of multiple requests or responses within one message.

5. Each Member State shall bear its costs arising from the administration, use and maintenance of the software applications referred to in paragraph 4.

#### *Article 5*

#### **Information letter on the road safety related traffic offences**

1. The Member State of the offence shall decide whether to initiate follow-up proceedings in relation to the road safety related traffic offences listed in Article 2 or not.

In the event that the Member State of the offence decides to initiate such proceedings, that Member State shall, in conformity with its national law, inform the owner, the holder of the vehicle or the otherwise identified person suspected of committing the road safety related traffic offence accordingly.

This information shall, as applicable under national law, include the legal consequences thereof within the territory of the Member State of the offence under the law of that Member State.

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

the offence. For that purpose, the Member State of the offence may use the template as set out in Annex II.

3. Where the Member State of the offence decides to initiate follow-up proceedings in relation to the road safety related traffic offences listed in Article 2, the Member State of the offence, for the purpose of ensuring the respect of fundamental rights, sends 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 6*

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

Member States shall send a comprehensive report to the Commission by 6 May 2016 and every two years thereafter.

This comprehensive report shall indicate the number of automated searches conducted by the Member State of the offence addressed to the national contact point of the Member State of registration following offences committed on its territory, together with the type of offences for which requests were addressed and 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 given to the road safety related traffic offences, based on the proportion of such offences which have been followed up by information letters.

## *Article 7*

### **Data protection**

1. The provisions on data protection set out in Directive 95/46/EC shall apply to personal data processed under this Directive.

2. In particular, each Member State shall ensure that personal data processed under this Directive are, within an appropriate time period, rectified if inaccurate, or erased or blocked when they are no longer required, in accordance with Articles 6 and 12 of Directive 95/46/EC, and that a time limit for the storage of data is established in accordance with Article 6 of that Directive.

Member States shall ensure that all personal data processed under this Directive are only used for the objective set out in Article 1, and that the data subjects have the same rights to information to access, to rectification, erasure and blocking, to compensation and to judicial redress as those adopted under national law in implementation of relevant provisions of Directive 95/46/EC.

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 of the offence, including the date of the request and the competent authority of the Member State of the offence.



## *Article 8*

### **Information for road users in the Union**

1. The Commission shall make available on its website a summary in all official languages of the institutions of the Union of the rules in force in Member States in the field covered by this Directive. Member States shall provide information on these rules to the Commission.
2. Member States shall provide road users with the necessary information about the rules applicable in their territory and the measures implementing this Directive in association with, among other organisations, road safety bodies, non-governmental organisations active in the field of road safety and automobile clubs.

## *Article 9*

### **Delegated acts**

The Commission shall be empowered to adopt delegated acts in accordance with Article 10 concerning the update of Annex I in the light of technical progress to take into account relevant changes to Decisions 2008/615/JHA and 2008/616/JHA or where required by legal acts of the Union directly relevant for the update of Annex I.

## *Article 10*

### **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 9 shall be conferred on the Commission for a period of five years from [the date of the publication 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 9 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 on the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 9 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the



Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

#### *Article 11*

##### **Revision of the Directive**

By 7 November 2016, the Commission shall submit a report to the European Parliament and the Council on the application of this Directive by the Member States. In its report, the Commission shall focus in particular on the following aspects and shall, as appropriate, make proposals to cover those aspects:

- an assessment of whether other road safety related traffic offences should be added to the scope of this Directive,
- an assessment of the effectiveness of this Directive on the reduction in the number of fatalities on Union roads,
- an assessment of the need for developing common standards for automatic checking equipment and for procedures. In this context, the Commission is invited to develop at Union level road safety guidelines within the framework of the common transport policy in order to ensure greater convergence of the enforcement of road traffic rules by Member States through comparable methods and practices. These guidelines may cover at least the non-respect of speed limits, drink-driving, non-use of seat belts and failure to stop at a red traffic light,
- an assessment of the need to strengthen the enforcement of sanctions with regard to road safety related traffic offences and to propose common criteria concerning the follow-up procedures in the case of non-payment of a financial penalty, within the framework of all relevant Union policies, including the common transport policy,
- possibilities to harmonise traffic rules where appropriate,
- an assessment of the software applications as referred to in Article 4(4), with a view to ensuring proper implementation of this Directive as well as guaranteeing an effective, expeditious, secure and confidential exchange of specific VRD.

#### *Article 12*

##### **Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 6 May 2015. They shall forthwith communicate to the Commission the text of those provisions.

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

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

*Article 13*

**Entry into force**

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

*Article 14*

**Addressees**

This Directive is addressed to the Member States..

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*