



European Transport Safety Council

Position on the Revision of the Cross Border Enforcement Directive 2015/413

November 2022

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1. Background

The European Commission is currently preparing a revision of the EU Cross Border Enforcement (CBE) Directive (2015/413).¹ One of the main stated objectives of the legislation is to enhance road safety: contributing to ‘Vision Zero’ and the targets of reducing road deaths and serious injuries by 50% by 2030.

EU Member States committed to: “effectively enforce road safety rules and provide support to road enforcement bodies, including through cooperation and exchange of best practices” in the Valletta Declaration on Road Safety in 2017.²

There were 19,823 road deaths on EU roads in 2021.³ In addition, around 120,000 people were seriously injured on EU27 roads in 2019 according to European Commission estimates.⁴ Improvements to the EU framework for road safety enforcement rules brought about by the application and further revision of the CBE Directive can help prevent many of these deaths and injuries.

Enforcement of road traffic laws is an essential component in preventing death and injury. Enforcement is based on giving drivers the feeling that they are likely to be caught and punished when breaking the rules. Efficient enforcement strategies are, therefore, not only about increasing the level of fines, but about increasing the chance of being caught as perceived by the drivers. Consistent enforcement activities that are well explained and publicised also have a long-lasting effect on driver behaviour.

Traffic law enforcement is also a very cost-effective means of enhancing road safety. The benefits of applying existing best practice to the whole of the EU exceed the costs by a factor of four in the case of drink-driving and ten in the case of seatbelt use.⁵ According to the EC impact assessment, the full implementation of the CBE would save between 350 and 400 road deaths each year.⁶

¹ Directive (EU) 2015/413 facilitating cross-border exchange of information on road-safety-related traffic offences. <https://bit.ly/3TSN66x>

² 2017 Council conclusions on road safety - endorsing the Valletta Declaration. <https://data.consilium.europa.eu/doc/document/ST-9994-2017-INIT/en/pdf>

³ ETSC (2022) Ranking EU Progress on Road Safety 16th Road Safety Performance Index Report. <https://bit.ly/3E7oQsx>

⁴ European Commission Press release (11 June 2020), Road safety: Europe’s roads are getting safer but progress remains too slow. <https://bit.ly/38CDjft>

⁵ ETSC (2007), Traffic Law Enforcement Across the EU – Time for a Directive, <http://goo.gl/PQkZY6>

⁶ European Commission (2019) Inception Impact Assessment Cross Border Enforcement of Traffic Rules <https://bit.ly/3DnKq7U>

The EU adopted the Directive on CBE in 2015 building on the EC Recommendation on Enforcement in the field of Road Safety 2004/345.⁷ While education and engineering improve safety in the longer term, effective enforcement leads to a rapid reduction in deaths and injuries.

The CBE Directive aims to facilitate the enforcement of financial penalties against drivers who commit an offence in a different EU member state to the one where the vehicle concerned is registered. A major reduction could be achieved in mitigating the riskiest behavioural offences of speeding, drink-driving, non-use of seatbelts and child restraints. The Directive covers the main offences causing road death and serious injury in the EU including: speeding, failing to use a seatbelt, failing to stop at a red traffic light, drink-driving, driving while under the influence of drugs, failing to wear a helmet, use of a forbidden lane (i.e. bus lane), illegally using a mobile telephone or any other communication device while driving.

According to the European Commission, non-resident drivers account for approximately 5% of road traffic in the EU, but a foreign-registered car is around three times more likely to commit a traffic offence than a domestically-registered one.⁸ The European Commission also gives the example of France, where speeding offences committed by foreign registered cars reach approximately 25% of the total, with the figure going up to 40-50% of the total during periods of high transit and tourism.⁹ The total number of detected road traffic offences (covered by the Directive) and committed by non-residents in the EU is estimated at 10 million per year, out of around 200 million offences overall committed by residents and non-residents.¹⁰ The evaluation of the Directive's application showed that, in 2015, approximately half of the detected road traffic offences committed by non-residents had not been investigated.¹¹ Approximately half of the financial penalties for those road traffic offences by non-residents that had been investigated had not been successfully enforced.¹² Practically all offences where offenders had refused to pay financial penalties had not been enforced.¹³

The automated detection of a violation by safety cameras and automated identification of vehicles and owners are being used increasingly across the EU. According to the ETSC 2022

⁷ European Commission (2004) Commission Recommendation of 6 April 2004 on enforcement in the field of road safety. <https://bit.ly/3EtORnZ>

⁸ European Commission (2010) Press Memo on CBE <https://bit.ly/3dYrTZt>

⁹ *ibid*

¹⁰ European Commission (2016) Staff Working Document on the evaluation of cross-border exchange of information on road traffic offences Evaluation Report. <https://bit.ly/3TE0s7l>

¹¹ *ibid*

¹² *ibid*

¹³ *ibid*

PIN Report on Traffic Law Enforcement, only ten EU Member States were able to provide data on the number of automatically detected offences committed by non-residents.¹⁴ These data show that the proportions of those followed up vary greatly from one country to another. For example, in Austria, Hungary and Latvia in 2020 all the offences were followed up with a letter sent to the owner of the vehicle but varying proportions of the penalties issued for those offences were eventually paid – 100% in Slovakia, 65% in Austria, 52% in Latvia and 45% in Hungary.¹⁵ On the other hand, 38% of offences committed by non-residents were followed up with a letter in Portugal in 2020 but a relatively high proportion of the penalties issued were paid (86%).¹⁶

The evaluation by the EC states that the CBE Directive brings EU added value by making the automated exchange of vehicle registration data possible in all Member States through an electronic information system.¹⁷ The 2019 Inception Impact Assessment identifies the main problems with implementation that should now be addressed in the upcoming revision.¹⁸

This position paper presents ETSC's recommendations for the upcoming revision, prioritising the elements which will have the highest potential for saving lives and preventing serious injury.

¹⁴ ETSC (2022) How Can Traffic Law Enforcement Contribute to Safer Roads PIN Report 42. <https://bit.ly/3e0kPLL>

¹⁵ ibid

¹⁶ ibid

¹⁷ European Commission, Staff Working Document (2016) Evaluation of cross-border exchange of information on road traffic offences. <https://bit.ly/3TE0s7l>

¹⁸ European Commission (2019) Inception Impact Assessment Cross Border Enforcement of Traffic Rules. <https://bit.ly/3DnKq7U>

2. Improving Follow-Up of Offences

The CBE Directive is a tool that can help achieve greater compliance with traffic laws, improve road safety and ensure equal treatment of resident and foreign drivers by reducing the impunity of the latter. The systems in place to follow up on a traffic offence are crucial. Research has found that long-term behavioural effects from enforcement are only achieved if the detection of a violation is followed by immediate feedback or a sanction.¹⁹ Efficiency is further enhanced if the handling of fines for detected violations is rapid, thus largely automated. The best estimate is that automatic speed enforcement results in a collision reduction of 15 to 20%.²⁰ The EC Recommendation on Enforcement in the field of Road Safety 2004/345 stresses that the follow-up of detected offences should be 'effective, proportionate and dissuasive'.²¹

It is important that the level of sanction is proportionate to the risk related to non-compliance. The levels of penalty should escalate as the level of non-compliance, for example speeding above the limit, increases as well as for recidivists.²² However, research has found that the level of sanctions has less of an impact on safety than the level of enforcement.²³ Hence the importance of the CBE Directive.

The Directive aims to put in place an important missing link in the enforcement chain thus enabling the information exchange needed to follow through police and enforcement authority efforts to achieve fuller compliance with traffic law and improve road safety.

Currently, it is for the Member State where the offence is committed to decide on the follow-up and punishment for the traffic offence. In case of non-payment of a fine, the Council Framework Decision on mutual recognition to financial penalties enables a judicial

or administrative authority of country A to transmit a financial penalty directly to an authority in another EU country B and to have that penalty recognised and executed by country B.

¹⁹ ESCAPE (2001) in PACTS (2020) Roads policing and its contribution to road safety. <https://bit.ly/35Fsh8C>

²⁰ Elvik, R. & Vaa, T. (2004) The Handbook of Road Safety Measures <https://bit.ly/3GM4e85>

²¹ EC Recommendation 2004/345 on Enforcement in the Field of Road Safety. <https://bit.ly/2H06SMX>

²² ETSC (2022) How Can Traffic Law Enforcement Contribute to Safer Roads PIN Report 42. <https://bit.ly/3e0kPLL>

²³ Koornstra, M. et al (2002) SUNflower: A comparative study of the development of road safety in Sweden, the United Kingdom, and the Netherlands <https://bit.ly/2ZLZv2c> in ETSC (2022) How Can Traffic Law Enforcement Contribute to Safer Roads PIN Report 42. <https://bit.ly/3e0kPLL>

Moreover, drivers who have not paid a fine and return to the country in question may also face action – in the same way as a local resident with an unpaid fine.

The 2019 inception impact assessment detailed several ongoing issues with the implementation of the Directive on follow-up that should be addressed in the revision.²⁴ These include problems with delivering the information about the offence to the presumed offender (due to missing additional evidence on the driver's identity or because the offender has moved), problems with identifying the presumed offender because of lack of access to vehicle registration data (e.g. because of limited cooperation between or within Member States) or non-recognition of administrative or judicial decisions because of different levels in fundamental rights protection in Member States.

Yet, as seen above and in the ETSC PIN Report, there is room for improvement in the upcoming revision of the Directive. In 2015, half of the detected road traffic offences committed by non-residents were not investigated and approximately half of the financial penalties for those road traffic offences by non-residents that had been investigated had not been successfully enforced.²⁵

For better implementation of the Directive, improved EU tools are needed to enable cross border cooperation on road traffic offence investigations and mutual recognition of decisions on financial penalties, specifically for traffic offences. This includes ways to simplify and digitise (electronic exchange of data and documents) existing EU mutual assistance procedures. This would also help overcome the lack of human resources in case of manual follow up. ETSC supports the strengthening of the enforcement chain to introduce mandatory notification by the State of Offence of the owner of the vehicle and mandatory reply to requests in the State of Residence. To aid evaluating the impact of the Directive, the reporting functionality of EUCARIS should also be improved so as to report automatically to the European Commission the number of conducted and failed searches.

- Strengthen the enforcement chain, including mandatory notification by the State of Offence of the owner of the vehicle in accordance with their national legislation and mandatory obligation to reply to requests in the State of Residence of the offender.
- In case of non-payment, encourage Member States to apply the Council Framework decision 2005/214 on mutual recognition of financial penalties.
- Introduce further simplification and digitisation of the enforcement chain including existing EU mutual assistance procedures.
- Improve the reporting functionality of EUCARIS to report automatically to the

²⁴ European Commission (2019) Inception Impact Assessment. <https://bit.ly/3KumB3N>

²⁵ European Commission (2016) Staff Working Document on the evaluation of cross-border exchange of information on road traffic offences, Evaluation Report. <https://bit.ly/3TE0s7l>

European Commission the number of conducted and failed searches.

3. Standards for Enforcement Equipment and Deployment

There is a growing need for common minimum EU standards for automated enforcement equipment and their application to improve and align enforcement of the main offences at national level. For example, in the case of speed enforcement, technical specifications of safety cameras vary from country to country. Therefore, there is a risk that a sanction imposed in an EU Member State is challenged by a non-resident offender on the grounds that the checking equipment used to detect the offence did not comply with the specification of the country of residence of the offender. The revision clause of the CBE Directive stated that the EC evaluation report should include “an assessment of the need for developing common standards for automatic checking equipment and for procedures.” Also in this context, to develop guidelines for a “greater convergence of the enforcement of road traffic rules by Member States through comparable methods and practices.”²⁶ The EC evaluation report stated that it is “recognised that the exchange and application of best practice enforcement practices including the deployment and operation of automatic checking equipment can have a positive impact on road safety.”²⁷ ETSC would support the development of common minimum standards for enforcement equipment including deployment and operation based on existing best practice. This could also cover, for example under automatic speed enforcement, taking photos of the front and back of vehicles to cover different liability regimes and setting minimum speed tolerance levels.

- Develop common minimum standards for enforcement equipment and their deployment and operation.

²⁶ 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. <https://bit.ly/3M0SZM0>

²⁷ European Commission (2016) Staff Working Document on the evaluation of cross-border exchange of information on road traffic offences Evaluation Report. <https://bit.ly/3TE0s7l>

4. Version 2.0 of the EC Recommendation on Enforcement of Road Safety

ETSC would welcome a new version of the EC Recommendation on Enforcement in the field of Road Safety 2004/345 bringing it up-to-date with the latest changes. The EC Recommendation has made a difference to traffic law enforcement in EU countries and, whilst a lot remains relevant, it would benefit from an update. In the Recommendation EU Member States are asked to apply, in a national enforcement plan, what is known to be best practice in the enforcement of speed, alcohol and seatbelt legislation. Some of the parts of the existing EC Recommendation are still highly relevant whilst other parts should be updated and new sections included, for example enforcing distracted driving.

Within the context of a new EC Recommendation, it is important to include that the level of sanctions is proportionate to the risk related to non-compliance. There are several examples of fines linked to income around Europe (Finland, Sweden), in particular for speeding offences. Changes to sanctions, together with enforcement, can make a difference to behaviour. As reported by the ITF, several countries have recently strengthened their sanctions and penalties regimes for speeding violations.²⁸

The new EC Recommendation could also include a categorisation to define the degree of seriousness of infringements by reference to the risk of road deaths or serious injuries and provide a basis for sanction levels set in national law, as done in the Regulation 2016/403 on enforcement of the EU rules governing commercial road transport in Annex III.²⁹ It contains categories and types of serious infringements divided into seriousness according to their potential to create a risk of road deaths or serious injuries.

Preparation of this new EC Recommendation should seek input from the EC Expert Group on Enforcement and the roads policing community represented by RoadPol.

- Publish a new and revised EC Recommendation on enforcement and sanctions in the field of road safety and thereby encourage Member States to achieve high

²⁸ ITF (2018) Speed and Crash Risk <https://bit.ly/3H5kXms>

²⁹ Commission Regulation 2016/403 with regard to the classification of serious infringements of the Union rules, which may lead to the loss of good repute by the road transport operator, and amending Annex III to Directive 2006/22/EC of the European Parliament and of the Council <https://bit.ly/3Uc3e2W>

standards on enforcement that are 'state of the art'. Include in the revised EC Recommendation the importance of setting sanctions that are proportionate to the risk related to non-compliance.

- Continue exchanging best practices via the EC Expert Group on enforcement.
- Collect, analyse and publish summaries of EU countries' enforcement plans to facilitate the exchange of best practices on enforcement across the EU and work towards developing a common road safety enforcement strategy.
- Adopt a new EU Key Performance Indicator on the enforcement effort (e.g. number of checks) and results (number of violations detected and sanctioned) over time by violation in priority areas such as speeding, drink- and drug-driving, seatbelt and child restraints.

5. Extension of Scope

The CBE Directive's scope covers the eight most important road safety-related traffic offences. Offences including speeding, failing to use a seat belt, drink and drug-driving and the use of communication devices are a major threat to road safety and are often committed by non-resident drivers also as some feel that they are immune to follow-up and sanctioning.

ETSC would support the extension of scope to other offences with a clear road safety impact including: not keeping sufficient distance from the vehicle in front, dangerous overtaking (including of cyclists), dangerous parking (including on pavements and bicycle lanes), crossing solid white line(s), not respecting road-safety related requirements for access to restricted zones (such as pedestrian zones), driving the wrong way and driving with an overloaded vehicle.

- Extend the scope of the Directive to a limited number of other offences with a clear road safety impact.

6. Mutual recognition of Driving Disqualifications and Point Systems

ETSC would also support the gradual introduction of the mutual recognition of non-financial penalties including driving disqualifications and penalty point systems in EU road safety legislation. This would build upon the current CBE Directive on financial penalties and feed into the current revision of the Driving Licence Directive.³⁰ Under the Driving Licence Directive, RESPER (RESeau PERmis de conduire), the EU network for the exchange of driving licence information, acts as an EU-wide hub for information exchange between Member State driving licence issuing authorities. The main purpose of this platform is to ensure the ‘one person one licence’ principle, ensuring that drivers only drive vehicles in categories they are qualified for and assisting in combating document fraud by allowing Member States to verify the validity of licences issued by other countries. This network still has some technical issues which should be resolved to improve its efficiency and use further. ETSC would support the improvement of the existing RESPER network and thus its increased use by EU Member States.

Non-financial penalties such as demerit point systems,³¹ which can ultimately lead to driver disqualification, have a strong deterrent effect and can improve road safety. This should also end impunity; non-resident drivers should not only have to pay fines but also face driver disqualification at home and abroad. Demerit point systems are known to reduce collisions and deaths when coupled with increased enforcement, effective follow-up and communication campaigns and when applying the recommendations set out in the BestPoint Study.³² A 2012 meta-analysis study of European and non-European systems showed a decrease of between 15-20% in the number of collisions, deaths and injuries.³³

ETSC supports a gradual approach which could lead towards a common EU wide demerit point system as a long-term scenario.³⁴ ETSC recognises that the introduction would need to be

³⁰ ETSC (2022) Position on the Revision of the Driving Licence Directive 2006/126/EC.
<https://bit.ly/3Svcfnb>

³¹ A demerit point system assigns or detracts penalty points and results in additional punishment when the level of repeat offending has resulted in a certain number of penalty points being collected or lost; Van Schagen I., Machata K. (2012), The BestPoint Handbook: Getting the best out of a Demerit Point System. EU funded project. <https://bit.ly/3y9Yqml>

³² The BestPoint Handbook: Getting the best out of a Demerit Point System. EU funded project.
<https://bit.ly/3y9Yqml>

³³ SWOV, September 2012, Factsheet on Demerit Points, p2. <https://goo.gl/7KVioK>

³⁴ Van Schagen I., Machata K. (2012), The BestPoint Handbook: Getting the best out of a Demerit Point System. EU funded project. <https://bit.ly/3y9Yqml>

done step-by-step. Previously an EU Convention on Driving Disqualifications (1998) was revoked due to a lack of EU Member State ratification.³⁵ This would start with setting up a demerit point system in every EU Member State.³⁶

The next step would be to introduce so-called ‘virtual’ driving licences whereby a non-resident driver has a ‘virtual’ Driving Licence opened in other EU Member States.³⁷ Committed offences carrying penalty points would be followed in a demerit system for the non-residents via a virtual license, which can ultimately lead to a driving ban in that country for them as well.

Within the Driving Licence Directive Revision and CBE Directive Revision:

- Encourage the mutual recognition of driving disqualifications of all offences that are punishable with a disqualification under the law of the EU Member State in which the offence was committed.
- Encourage EU Member States to set up and implement a demerit point system which includes a set of fixed penalties for at least the eight major road safety-related offences included in the Directive 2015/413 concerning cross-border exchange of information on road safety-related traffic offences as recommended by the research project BESTPOINT.³⁸
- Encourage EU Member States to introduce stricter demerit point systems during a probationary period for newly-licensed drivers with penalties such as loss of licence or mandatory traffic risk awareness training.
- Encourage all EU Member States to set up virtual driving licences with penalty points for non-resident drivers to deter recidivist offending.
- Encourage all EU Member States to recognise the virtual driving licence set up by other Member States for the follow up of penalty points for non-residents.
- Improve existing efficiency of the RESPER network and authorise Police to access RESPER to check driver license confiscations to prevent driving licence tourism.

³⁵ Convention on Mutual Recognition of Driving Disqualifications. <https://bit.ly/3QSIzZi>

³⁶ Van Schagen I., Machata K. (2012), The BestPoint Handbook: Getting the best out of a Demerit Point System. EU funded project. <https://bit.ly/3y9YqML>

³⁷ ibid

³⁸ ibid

7. Awareness of Citizens on Rules in Force in EU Member States

To raise people's awareness that their traffic law compliance is being checked, enforcement must be highly visible and publicised. Research indicates that it is the drivers' subjective risk of being caught that must be increased if enforcement is to be successful.³⁹ Research also finds that, unless enforcement and publicity levels are maintained over a long period, their effect is usually only short-term.⁴⁰ And as aforementioned, behavioural effects from enforcement are only achieved if the detection of a violation is followed by immediate feedback or a sanction.⁴¹ The CBE Directive aims to raise awareness about road safety rules in force. EU Member States must inform non-residents of their rules and the European Commission runs a website with the same aim. The EC Recommendation on Enforcement in the field of Road Safety 2004/345 includes the need to "combine enforcement with information of the public, which will be given in the form of publicity campaigns aiming at making the public conscious of road safety."⁴²

The European Commission "Going Abroad" website provides relevant information on traffic rules enforced in all 27 EU Member States, related to the eight offences covered by the Cross Border Enforcement Directive, as well as a downloadable smartphone app. At least 400,000 road users in the EU annually receive information on road traffic rules according to the EC Evaluation.⁴³ At a national level the Directive also states that: "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."

³⁹ ESCAPE (2001) in PACTS Roads policing and its contribution to road safety. (2020) <https://bit.ly/35Fsh8C>

⁴⁰ Harper, J.G. (1991) Traffic violation detections and deterrence: implications for automatic policing. *Applied Ergonomics*, 23 (3), p. 189-197 Elliott, B. (1992) Achieving high levels of compliance with road safety laws: a review of road user behaviour modification. Shinar, D. & McKnight, J.A. (1985). The effects of enforcement and public information on compliance. In Evans, L. and Schwing, R.C. (Eds) *Human behaviour and traffic safety*, pp 385-415, Plenum: New York. In PACTS (2020) Roads policing and its contribution to road safety. <https://bit.ly/35Fsh8C>

⁴¹ ESCAPE (2001) in PACTS (2020) Roads policing and its contribution to road safety. <https://bit.ly/35Fsh8C>

⁴² European Commission (2004) Commission Recommendation of 6 April 2004 on enforcement in the field of road safety. <https://bit.ly/3Et0RnZ>

⁴³ European Commission (2016) Staff Working Document on the evaluation of cross-border exchange of information on road traffic offences Evaluation Report. <https://bit.ly/3TE0s7l>

- EU Member States should keep the EC website “Going Abroad” updated to reflect any changes of legislation.
- EU Member States should couple enforcement activities with road safety campaigns targeting road users.

8. Funds and Revenues from Fines

At present the CBE Directive does not cover funding or financing for its implementation. Those EU Member States who are successfully implementing it are able to recover traffic fines from non-resident offenders. ETSC calls for revenues generated by fines to be channelled back into road safety work.

ETSC would welcome a specific reference in the Directive to ‘encourage’ use of EU funds (Cohesion Funds and Connecting Europe Facility) to support the EU Member States’ use of recognised enforcement best practices. EU funds and programmes should also be used for capacity building amongst the enforcement bodies i.e. police and justice administrations in the EU Member States. This should include the exchange of best practices thus making sure there is a bottom-up feedback loop from the practical implementation of the CBE Directive to the legislators informing them of any revisions that are needed to further improve the Directive. ETSC would also support a specific reference in the Directive to fund joint enforcement actions on the key priorities, such as Roadpol’s ‘Speed Marathon’ and Road Safety Days as this helps foster political will and helps with exchange of best practices. Finally, there is a need for new EU research to focus on the impact of enforcement strategies building on the work of previous EU-funded projects such as ESCAPE and PEPPER dating from the 2000s.

- Support EU Member States in setting up a transparent system for the allocation of revenues generated by fines and channel revenues from enforcement back into road safety work.
- Fund road traffic police authorities to apply use of recognised cross-border enforcement and exchange experiences on best practices.
- Fund enforcement bodies i.e. police and justice administrations in the EU Member States to build capacity for full follow up.
- Fund EU research on enforcement in order to develop effective enforcement strategies and tactics.

FOR FURTHER INFORMATION

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The European Transport Safety Council (ETSC) is a Brussels-based independent non-profit making organisation dedicated to reducing the numbers of deaths and injuries in transport in Europe.