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 (Text with EEA relevance)

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(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[(1)],

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure[(2)],

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[(3)] and Council Decision 2008/616/JHA[(4)] (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 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) In its communication of 20 July 2010 entitled 'Towards a European road safety area: policy orientations on road safety 2011-2020', the Commission 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

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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 (TFEU)). Directive 2011/82/EU of the European Parliament and of the Council[(5)] was, however, adopted on the basis of Article 87(2) TFEU. The judgment of the Court of Justice of 6 May 2014 in Case C-43/12[(6)] annulled Directive 2011/82/EU on the grounds that it could not validly be adopted on the basis of Article 87(2) TFEU. The judgment maintained the effects of Directive 2011/82/EU until the entry into force within a reasonable period of time — which is not to exceed 12 months as from the date of delivery of the judgment — 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 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, might 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) Member States should 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. To this end, 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) Decision 2008/616/JHA specifies the security features for existing software applications and the related technical requirements for the exchange of vehicle registration data. Without prejudice to the general applicability of that Decision, those security features and technical requirements should, for reasons of regulatory and practical efficiency, be used for the purposes of this Directive.

(12) 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 assess and report on the functioning of the software applications used for the purposes of this Directive.

(13) The scope of those 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.

(14) The Information Management Strategy for EU internal security aims to find the simplest and most easily traceable and cost-effective solutions for data exchange.

(15) 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 in 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 letter in an appropriate way, in particular by asking for more information, by settling the fine or by exercising his/her rights of defence, especially 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[(7)].

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(16) Member States should provide 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[(8)].

(17) With a view to pursuing a road safety policy that aims to provide 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.

(18) In 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 Member States in the event of non-payment of a financial penalty, in accordance with Member States' laws and procedures. In that 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.

(19) In preparing the review of this Directive, the Commission should consult the relevant stakeholders, such as road safety and law enforcement authorities or competent bodies, victims' associations and other non-governmental organisations active in the field of road safety.

(20) 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 the protection of personal data, guaranteed by special data protection arrangements. Those arrangements 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 transmitted. The data collected 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.

(21) The processing of personal data provided by this Directive is appropriate for attaining 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, and does not exceed what is appropriate and necessary in order to achieve those objectives.

(22) Data relating to the identification of an offender are personal data. Directive 95/46/EC of the European Parliament and of the Council[9] should apply to the processing activities carried out in application of this Directive. Without prejudice to the procedural requirements for appeal and the redress mechanisms of the Member State concerned, the data subject should accordingly be informed, when notified of the offence, of the right to access and the right to rectification and deletion of personal data, as well as of the maximum legal storage period of the data. In this context, the data subject should also have the right to obtain the correction of any inaccurate personal data or the immediate deletion of any data recorded unlawfully.

(23) In the framework of the Prüm Decisions, the processing of VRD containing personal data is subject to the specific provisions on data protection set out in Decision 2008/615/JHA. In that respect, Member States have the possibility to apply those specific provisions to personal data which are also processed for the purposes of this Directive provided that they ensure that the processing of data related to all of the offences covered by this Directive complies with the national provisions implementing Directive 95/46/EC.

(24) 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.

(25) 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.

(26) In order to achieve the objective of the exchange of information between Member States through interoperable means, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the taking into account of relevant changes to Prüm Decisions or where required by legal acts of the Union directly relevant for the updating of Annex I. It is of particular importance that the Commission follow its usual practice and 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.

(27) The Commission should analyse the application of this Directive with a view to identifying further effective and efficient measures to improve road safety. Without prejudice to obligations to transpose this Directive, Denmark, Ireland and the United Kingdom should also cooperate with the Commission in this work, where appropriate, to ensure timely and complete reporting on this matter.

(28) 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