



## Public Consultation on “ Respecting the Rules: Better Road Safety Enforcement in the EU ”

### Position of the European Transport Safety Council

#### General Comment

The European Transport Safety Council (ETSC)<sup>1</sup> welcomes the consultation on “Respecting the Rules: Better Road Safety Enforcement in the EU”. A safe, sustainable and efficient transport system is essential for the European Union and its economic and social development.

The EU has set itself the target of halving the number of road deaths from 50,000 to 25,000 by 2010. It was proposed in its White Paper on the Common Transport Policy (EC 2001) and the Third European Road Safety Action Programme (EC 2003) which provided the appropriate framework for road safety policy planning in Europe. The Programme identified three areas of action: the behaviour of road users, vehicle safety and improvement of road infrastructure. It also specifically outlined a proposal to help achieve the proper enforcement of the most important safety rules. This resulted in a Recommendation on Enforcement in the field of road safety (EC 2003).

The Mid-term Review of the 3<sup>rd</sup> Road Safety Action Programme published last February is shown by an increased inequality of road risk across the EU. The gap between the best- and the worst-performing Member States is very wide. With less than four years to go, the chances of the European Union to achieve its 50% road death reduction target by 2010 are slim. The Commission estimates that, in 2005, approximately 41,600 people were killed on European roads, which means a reduction of only 17.5% since 2001, some way off the 25% needed for the EU to be on course to achieve the target of halving road deaths by 2010. Despite this analysis the Mid-term Review did not include any legislative proposal to the disappointment of road safety stakeholders, including ETSC.

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<sup>1</sup> The European Transport Safety Council (ETSC), founded in 1993 is a Brussels-based independent non-profit making organisation dedicated to the reduction of the number and severity of transport crashes in Europe. The ETSC seeks to identify and promote research-based measures with a high safety potential. It brings together 36 national and international organisations concerned with road safety from across Europe.



The Third Road Safety Action Programme also failed to introduce a timescale for actions and a clear indication of which actions will deliver what kind of results. The European Commission has now only four years to translate good intentions on paper into successful interventions on the road.

Given the short time available until 2010, ETSC would urge the European Commission to swiftly adopt the proposed legislation on enforcement.

## Facts and figures of road safety in Europe

Road transport remains the main cause of death among all EU citizens under the age of 45. It kills around 115 persons every day, the equivalent of a medium-sized plane accident with no survivors. The value attributed to prevention of all road accidents is estimated to be 180 billion **Euros**.

The risk of death on EU roads is substantially higher for vulnerable road users (8-9 times higher for pedestrians and cyclists) than for users of cars. The statistics for motorcyclists are also particularly worrying. If the actual trend continues, in 2010 one out of three road deaths might be a motorcyclist instead of one out of six today.

The average death risk in the Southern, Central and Eastern European countries (the "SEC Belt countries") is about three times higher than the EU average. Deaths continue to rise in certain Member States already at the bottom end of the table, such as Lithuania, Hungary, the Czech Republic and Cyprus.

## Specific Comments on the Consultation on "Respecting the Rules: Better Road Safety Enforcement in the EU"

ETSC strongly supports the preparation of a Directive that includes minimal requirements in the area of enforcement of road traffic law. In its recent publication "Enforcement Across the EU: an Overview" (2006) ETSC stated that the EC Recommendation on enforcement has undoubtedly helped to raise the profile of traffic law enforcement in the EU countries. It has stimulated discussion and best practice exchange. Member States should therefore continue the implementation of the Recommendation. However in order to ensure that all Member States achieve high standards in enforcement, the European Commission should also prepare a Directive that includes minimal requirements in all areas covered by the Recommendation.

Effective enforcement of road safety rules would lead to a rapid and massive reduction in road deaths. Most drivers involved in traffic crashes do not comply with speed limits, blood alcohol levels and/or the EU-wide obligation to wear safety

belts. The European Commission had a cost-benefit analysis carried out concerning the three enforcement areas of speeding, drink driving and seat belt use. It assessed that increased enforcement would result in a total annual reduction of 14,000 road deaths and 680,000 injuries in the EU 15, and in a net benefit of 37 billion Euro or 0.44% of GNP<sup>2</sup>. In detail, optimised enforcement would be a major contribution to reducing traffic deaths and injuries in Europe (EU 15)

- In the case of speeding, 5,800 deaths could be prevented.
- In terms of drink driving, 3,900 deaths could be prevented.
- More than 4,300 of those killed could survive if seat belt use was better enforced.

Enforcement is a means to prevent collisions from happening by way of persuading drivers to comply with the safety rules. It is based on giving drivers the feeling that they run too high a risk of being caught when breaking the rules, regardless of which country they are currently travelling in. Efficient enforcement strategies are therefore not in the first place about increasing the actual amount of enforcement activity, but about increasing the risk of being caught as perceived by the drivers.

## Why do we need a Directive on Traffic Law Enforcement for the EU?

### 1. Insufficient progress towards the EU Target

If current progress continues the EU will only reach a 35% reduction and not 50% by 2010 as planned. The European Commission committed in its Recommendation on enforcement (2003), to propose a Directive in case this objective was not achieved.

### 2. Enforcement is an effective short term measure

While education and engineering improve safety in the longer term, effective enforcement leads to a rapid reduction in deaths and injuries. Moreover, sustained intensive enforcement that is well explained and publicised also has a long-lasting effect on driver behaviour. Traffic law enforcement is a very cost-effective means of enhancing road safety. The benefits of applying existing best practice in enforcement to the whole of the EU exceed the costs by a factor of 4 (drink driving) to 10 (seat belt use). Traffic law enforcement is supported by a large share of the European public. A total of 70% of European drivers are (strongly) in favour of more enforcement of traffic laws, according to an EU survey<sup>3</sup>. According to a public

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<sup>2</sup> ICF Consulting (2003): Costs-benefit analysis of road safety improvements. Final Report.

<sup>3</sup> Ewers U 2004. Changes over time. Presentation to the SARTRE 3 Final Seminar in Paris, France.



opinion survey in France, 77% support automatic speed enforcement as a good tool to improve road safety (2005).

### 3. Cross Border Enforcement: growing consensus for an EU wide approach

There is increasing evidence from different Member States that non-resident drivers flout traffic laws when travelling abroad as they do not fear punishment. The implications are twofold: firstly, their dangerous behaviour can lead to road accidents, and secondly it raises criticism in the country they are travelling as police are not always able to apply the sanctions fairly. For example in France, in 2005 1 million of the 8.6 million offences registered by the automatic radars were committed by non-resident drivers, of which 25 % were from Germany.

The recently completed research entitled "Common Application of Traffic Violations" (CAPTIVE) also concludes that: "the reality is that penalties are rarely enforced on non-resident violators, a situation which is in complete contrast to the principles of fair and consistent treatment of all European citizens and of proportionality as enshrined in the Treaty of the European Union (CAPTIVE 2006:92)."

The EC Recommendation also includes requirements on addressing these cross-border aspects. Member States are asked to set up Enforcement Co-ordination Points to ensure that serious or repeated offences committed by non-resident drivers are reported and followed up by the competent authority of the Member State in which the vehicle is registered. Moreover, countries are working to transpose the Council Framework Decision on the Application of the Principle of Mutual Recognition to Financial Penalties (2003) (COPEN 24). This Decision applies to traffic offences carrying penalties over 70 Euros. It will be particularly important as countries across Europe move to introduce more safety cameras as police do not follow up such offences on the spot, rather a letter for payment of a fine is sent to the offender. There is a clear consensus that a common EU approach is needed to tackle non-resident offenders. ETSC recommends that this should form a key part of a Directive on traffic law enforcement.

### 4. The Road Safety Gap

The level of road safety enforcement varies between the Member States. This includes both the level of police enforcement activity and the application of best practice. High common standards should be the norm. Although the EC Recommendation has helped to raise the profile of traffic law enforcement in the EU and in some Member States, a Directive is needed to achieve high standards in all countries. The European Commission should note the correlation between a low take up of enforcement best practice and high level of deaths as in Lithuania and Hungary.

## 5. Achieving Best Practice

Research should be used as a basis for achieving best practice exchange and this should be incorporated into binding legislation. There is no need to reinvent the wheel and Member States could very much benefit from learning from one another's best practice approaches. Experience of setting up and managing safety camera networks can be of real relevance to countries setting up new systems. Sweden has for example taken on the French model of automatic follow up of offences for speeding. In Sweden research has shown that so far deaths on road stretches covered by fixed cameras have been reduced by up to 60%.

## 6. Legal basis for European Legislation

Legislation should be drafted on the basis of Article 71 of the Treaty of the European Union which states that the Council shall, acting in accordance with the procedure referred to in Article 251, lay down measures to improve transport safety. This will then complement the recently adopted Regulation (No 561/2006) and Directive 2006/22 on the harmonisation of certain social legislation relating to professional road transport. Just as the social legislation was extended to all roads, new proposed legislation should also be applied beyond the Trans-European Road Network to all EU roads. This is also important in terms of ensuring clarity and the application of the same enforcement to all types of roads.

## Analysis of the Options – ETSC supports Option 5

For the aforementioned reasons 1-6, ETSC supports the fifth option presented by the European Commission in its Consultation. This option requires enforcement methods and measures implemented by Member States to meet common standards and targets established by a regulatory framework. ETSC would see this as the implementation of best practice on enforcement in the three priority areas in all EU Member States as included in the EC Recommendation on enforcement. The measures proposed in the Recommendation are based on the results of different EC funded research in this area<sup>4</sup>.

This fifth option is also supported by the Common Application of Traffic Violations (CAPTIVE) report which concludes that a new agreement is required to implement the elements of the common approach. This common approach has been defined as cross-border enforcement which aims to ensure fair and equal treatment of all road users to help improve road safety and includes common operational procedures, interface procedures and common (minimum) operational standards. The research considered the existing legal instruments including the Convention on driving

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<sup>4</sup> ESCAPE 2003, SUNflower 2002, GADGET 2000, VERA 2000, different ETSC studies and reports.

disqualifications and financial penalties of criminal road traffic offences in the cross-border enforcement of penalties imposed on non-resident violators of road traffic laws. The final report concludes that a new Directive under the first pillar is required to provide a legal basis for the elements of the common approach which are outside of the scope of the 3<sup>rd</sup> Driving Licence Directive, the Convention on driving disqualifications and COPEN the Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties. (CAPTIVE 2006:73).

ETSC is of the opinion that option 5 could be valuable and have clear returns in countries that already have good levels of road traffic law enforcement. It would also help them to plug the gaps they currently face on the cross border enforcement challenge. For countries with lower levels of road traffic law enforcement the application of firm legislation would lead to the implementation of life saving best practice in enforcement of traffic law.

ETSC would especially support the adoption of the fifth option which would take on the Best Practice presented in the EC Recommendation in the three areas of speeding, drink driving and seat belt use as well as information campaigns and the follow up of offences. These so-called "big three" main causes should be the start of a more co-ordinated approach but closer co-operation on other traffic offences, such as drug-driving, should not be ruled out in the medium to long term.

The formulation of the fifth option should avoid introducing burdensome changes of practice and new procedures on Member States who are already implementing best practice, but should lead all Member States to:

#### General

- Prepare enforcement plans with yearly targets for compliance in the areas of speeding, drink driving and seat belt use.

In the long run Member States should strive to achieve 100% compliance with the legislation. According to ETSC "there need be no contradiction between a far-reaching long-term vision or philosophy and a challenging but achievable, and thus necessarily more modest, shorter-term target associated with a strategy for the foreseeable future" (Assessing risk and setting targets in transport safety programmes ETSC 2003).

- Ensure that enforcement through new technologies does not diminish the important role of the police officer as a deterrent presence on the roads.
- Stick to a '0 Tolerance' approach to enforcing the three priority areas of road safety legislation, as in France.

#### Speeding

- Conduct mobile checks to deter speeding across the network.
- Use stationary camera equipment in places where speeding causes a high level of accidents.
- Channel revenues from camera enforcement back into road safety work.
- Collect speeding rates for all types of road three times a year, based on the example of France.

#### Drink driving

- Set a legal BAC limit of no more than 0.5 mg/ml.
- Introduce targeted breath testing to complement enforcement based on suspicion. This would allow roadside breath testing of anyone driving within a defined location for a defined period of time. This would give the Police extra scope to target drink-driving hotspots, and would increase the perceived likelihood of getting caught, which is a major deterrent to drink driving. This should also be supported by the introduction of evidential roadside breath testing.
- Systematically allow for the testing of drink driving in all Police checks relating to driver behaviour.
- Introduce obligatory testing for alcohol in all collisions dealt with by the Police.
- Collect quarterly rates of drink driving, based on the example of Finland and Estonia, and/or rates of traffic deaths from accidents involving drivers over the limit.

#### Seat belt use

- Conduct intensive actions of 1-4 weeks, which must take place at least twice a year.
- Collect yearly seat belt wearing rates for the various road and occupant categories (driver, front and rear passengers).

#### Follow-up of offences

- Work towards a low level of appeals for fixed penalties for speeding violations.
- Introduce a set of fixed penalties for minor speeding and seat belt offences.
- Include speeding and seat belt wearing offences in penalty point systems, where they exist.
- Introduce rehabilitation programmes to address recidivism in case of drink driving and speeding.

#### Information

- Publish the results of dedicated enforcement actions on the relevant Police websites.
- Prepare an annual enforcement and information campaign calendar with all key actors including actions in all three areas (speeding, drink driving, seat belt use).

#### Cross Border Enforcement:

- Continue the implementation of the Recommendation and set up Enforcement Co-ordination Points to ensure that serious or repeated offences committed by non-resident drivers are reported and followed up accordingly.
- Transpose the Council Framework Decision on the Application of the Principle of Mutual Recognition to Financial Penalties (2003) (COPEN 24).

### Other Options

The European Commission proposed four other different policy options in the field of enforcement. The first option constitutes "business as usual" which means leaving everything as it is. Due to the current level of road deaths in the EU and the potential gains that could be made through enforcement, doing nothing is not an option.

The second option is not sufficient either. As pointed out by the European Commission a more structured exchange of best practice between Member States has not occurred sufficiently within the framework of the EC Recommendation. Nor has this led to the building up of a more systematic cross border enforcement system. ETSC's analysis of this recent experience since the implementation of the EC Recommendation on Enforcement shows that the exchange of best practice and data are not enough<sup>5</sup>.

Moreover, ETSC agrees with the European Commission that without a Europe-wide information exchange system, only non-resident drivers, who return to the country where they have committed an offence previously are sanctioned. One of key indicators to show the effect of such a new system would be the deterrent effect. This option will not result in a strong enough effect.

In the third option, ETSC fully supports the need to set up an EU level information exchange system but insists that this new co-ordination must be anchored in EU legislation. ETSC agrees with the European Commission that without the guarantee of ensuring that these sanctions are executed the effectiveness will be weakened.

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<sup>5</sup> ETSC (2006) Enforcement Across the EU: An Overview.



The fourth option differs to the third by ensuring that a mutual recognition of evidence will be established. This should ensure a better guarantee of follow up of offences in the country where the offender is normally resident.

However, although options 2-4 would envisage EU legislation only option 5 would include an aim to work towards "meeting common standards and targets established by a regulatory framework". Only this would ensure what the European Commission has coined: "convergence to quality".

## Conclusion

In conclusion, ETSC clearly supports the elaboration of the fifth option as this is the only legislative proposal which will ensure both the quality and quantity of enforcement practice is introduced in all 27 EU Member States in the three priority areas of speeding, drink driving and seat belts. We urge the European Commission to prepare a Directive that includes minimal requirements in all areas covered by the Recommendation. This should aim to improve the quality of enforcement throughout the EU. This legislation should also incorporate the cross border enforcement of traffic law and thus ensure that drivers respect traffic law in whichever EU country they are driving.

ETSC Contacts:

Ellen Townsend [ellen.townsend@etsc.be](mailto:ellen.townsend@etsc.be)

Timmo Janitzek [Timmo.Janitzek@etsc.be](mailto:Timmo.Janitzek@etsc.be)

Telephone 02 230 41 06