

Entry into force of the EU Cross Border Enforcement Directive Frequently Asked Questions

1. What does Cross Border Enforcement mean? What is the goal of this Directive?

Cross Border Enforcement refers to the pursuit of traffic offences committed by drivers of a car which is registered in an EU Member State different than the one where they were detected. The goal of the Directive is to offer an automated tool for enforcement authorities in the Member State where the offence was committed to pursue and fine the drivers of cars registered in other EU Member States when they commit traffic offences.

Current co-operation agreements exist in the form of bi-lateral and multi-lateral agreements and many EU Member States already have systems in place to follow up traffic fines. However they are often not able to deal with the increasingly complex cross-border problems posed by traffic offenders. The Directive presents an EU wide automated approach. This new Directive will also mean that EU Member States will not have to negotiate new bilateral agreements with other countries.

2. How big is the problem?

According to the European Commission, non-resident drivers account for approximately 5% of the road traffic in the EU. However, 15% of the number of detected speed offences are committed by non-resident drivers.¹ Moreover, according to the Commission document, a foreign-registered car is three times more likely to commit traffic offences than a domestically-registered one.

The 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. Consequently, the Commission expects the highest positive benefits to be observed in countries with high levels of transit and tourism traffic, such as Austria, Belgium, France, Germany, Hungary, Italy, Luxembourg, Poland or Spain.

3. Which traffic offences are covered by the Directive?

Eight major road safety related offences are included in the text of the EU Directive:

- Speeding,
- Not using a seatbelt,
- Not stopping at a red traffic light or other mandatory stop signal,
- Drink driving,
- Driving under the influence of drugs,

¹ European Commission (2010) Cross border enforcement, Memo 10/642, http://europa.eu/rapid/press-release_MEMO-10-642_en.htm

- Not wearing a safety helmet (for motorcyclists),
- Using a forbidden lane (such as the forbidden use of an emergency lane, a lane reserved for public transport, or a lane closed down for road works),
- Illegally using a mobile phone, or any other communications device, while driving.

The Directive will be most effective in following up offences which can be detected automatically, such as speeding and running red lights.

4. Will the level of fines be the same as in my own country?

No, the level of fines applicable is the same as for drivers of cars registered in the country where the offence was committed.

5. Where can I find information about the traffic rules in other countries?

Currently, the European Commission website provides relevant information related to the 8 offences covered by the Cross Border Enforcement Directive: http://ec.europa.eu/transport/road_safety/going_abroad/index_en.htm. According to article 8 of the Directive, this information will also be made available in all the other official languages on the EU.

Additionally, TISPOL, the European traffic police network, has published a series of country driving guides, providing information about national traffic laws: www.tispol.org

6. How does the Directive work? How do authorities follow up offenders?

Each of the EU Member States covered by the Cross Border Enforcement Directive have to designate a national contact point for the system. This contact point will grant access to the information exchange system for the identification of drivers committing one of the offences described above. Upon detecting an offence, the contact point in that Member State grants access to the prosecuting authorities to perform a search through the information exchange system. They use the full licence plate number of the vehicle committing the offence. Upon deciding whether to follow-up on the traffic offence in question, the authorities in the Member State of offence send an information letter to the owner of the registration certificate. This information letter has to be written in the same language as the registration certificate in the Member State of registration and it must include relevant information about the traffic offence – the nature of the offence, the date and time of detection, the article of the relevant piece of legislation infringed – and the legal consequences of the offence.

For example: a car registered in Poland is recorded as not stopping at a red traffic light in France. A National Contact Point grants access through the information exchange system to the prosecuting authority in France, e.g. police services and prosecutor's offices.

Based on the results of the search, the French contact point can choose to follow up the offence by informing the holder of the Polish registration certificate – this can be the

owner of the vehicle, whether as an individual or as a company – of the offence committed and its legal consequences under the French law. This information is provided in the Polish language and sent to the address included in the vehicle registration data.

7. Are all the 28 countries of the EU taking part?

Currently only 25 of the 28 countries are taking part, Denmark, Ireland and UK have yet to opt into the Directive. Any EU Directive is based on one of the articles of the EU's Lisbon Treaty. The Cross Border Enforcement Directive is based on article 87, which deals with the area of cooperation and exchange of information between EU Member States in police and judicial matters. However, a number of protocols are annexed to the EU Lisbon Treaty. According to Protocol 22, Denmark has opted out of being covered by any legislation adopted under the Area of Freedom, Security and Justice title of the Treaty, and consequently is not covered by the Cross Border Enforcement Directive. In accordance to the Danish Constitution, a referendum would need to be held in order for the country to opt in to the provisions of this title of the Treaty of Lisbon. A referendum may take place as early as May 2014.

According to Protocol 21 of the Treaty of Lisbon, Ireland and the UK have opted out of being covered by any legislation adopted under the Area of Freedom, Security and Justice title of the Treaty, and consequently is not covered by the Cross Border Enforcement Directive. Any of the two countries can however decide to opt in to the Cross Border Directive by notifying the other Member States and the Commission of their decision.

8. Who pays for fines? What if an offence was committed with my car but I wasn't driving it? And where is the payment made?

The information letter is sent to the owner of the vehicle recorded as committing an offence. A reply form is enclosed to this communication, which gives the opportunity of identifying the driver of the vehicle, in cases where the owner was not driving at the time of the offence.

The information letter should also include details related how to pay fines resulting from committing the offence. This could include the bank details required to perform an international money transfer.

9. What if I just ignore the letter of information?

In 2005, the EU Member States have adopted a decision – Decision 2005/214/JHA on the Application of the Principle of Mutual Recognition to Financial Penalties – by which financial penalties are mutually recognised.

10. What are the costs of this Directive?

The largest part of the costs will be borne by translating the text of the information letter into the various official languages of the EU Member States. It must be pointed out however, that Annex II of the Directive includes a template for the information letter, one

which has been translated already into all EU languages when the full text of the Directive was published on the www.eur-lex.europa.eu website.

Additionally, the system for exchanging information between Member States, which can give rise to additional costs, is not a new development either. By adopting Council Decision 2008/615/JHA – which deals with stepping up cross border cooperation, particularly to combat terrorism and cross-border crime – Member States have committed to put in place many of the IT elements required for the transposition of the Cross Border Enforcement Directive.

Furthermore, the transposition of the Directive should not be seen as a cost, but rather as an investment in reducing the unacceptably high number of road collisions, especially those leading to injury and death. This Directive would make a significant contribution in the collective EU effort of halving road deaths over the 2010-2020 period. According to the latest ETSC estimates, the societal costs avoided by preventing just one road death stand at approximately 1.84 million EUR.²

11. When does this Directive become effective?

Member States have until the 7th of November 2013 the latest to adopt national legislation which includes the provisions of the Cross Border Enforcement Directive. Several Member States have adopted this transposing legislation before the deadline.

² ETSC (2013) 7th Road Safety PIN Report http://etsc.eu/documents/PIN_Annual_report_2013_web.pdf