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European Union

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### **OUTCOME OF PROCEEDINGS**

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From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	ST 14532/18
No. Cion doc.:	ST 9673/17
Subject:	Proposal for a Directive of the European Parliament and of the Council on the interoperability of electronic road toll systems and facilitating cross-border exchange of information on the failure to pay road fees in the Union (recast) (Text with EEA relevance)

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Delegations will find, attached, the text of the above-mentioned proposal as endorsed by the Permanent Representatives Committee on 28 November 2018 following the negotiations with the European Parliament.

As the next step, the text will undergo a legal-linguistic revision.

Delegations may make their statements regarding this directive at a later stage of the adoption process.

Proposal for a

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

**on the interoperability of electronic road toll systems and facilitating cross-border exchange of  
information on the failure  
to pay road fees in the Union (recast)  
(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) 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>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

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<sup>1</sup> OJ C , , p.

<sup>2</sup> OJ C , , p.

- (1) Directive 2004/52/EC of the European Parliament and of the Council<sup>3</sup> has been substantially amended. Since further amendments are to be made, that Directive should be recast in the interests of clarity.
- (1a-b) It is desirable to achieve widespread deployment of electronic toll systems in the Member States and neighbouring countries, and to have, as far as possible, reliable, user friendly, and cost-efficient systems suited to the future development of road-charging policy at Union level and to future technical developments. Therefore, it is necessary to make electronic tolls interoperable to reduce the cost and burden linked to the payment of tolls across the Union.
- (1a-a) Interoperable electronic tolling systems contribute to achieving the objectives laid down by Union legislation on road tolls.
- (1aa) The lack of interoperability is a significant problem in electronic road toll systems where the road fee due is linked to the distance covered by the vehicle (distance-based tolls) or to the passage of the vehicle through a specific point (e.g. cordon pricing). The provisions regarding the interoperability of electronic road toll systems should therefore apply only to those systems and should not apply to systems where the road fee due is linked to the time spent by the vehicle on the tolled infrastructure (time-based systems, vignettes).
- (1ab) Cross-border enforcement of the obligation to pay road fees is a significant problem in all kind of systems, distance-based, cordon or time-based, electronic or manual. To deal with the problem of cross-border enforcement of failure to pay a road fee, the provisions regarding the cross-border exchange of information should therefore apply to all those systems.
- (1aba) Under national law, the offence consisting of a failure to pay a road fee can be qualified as an administrative offence or as a criminal offence. This Directive should apply regardless of the qualification of the offence.

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<sup>3</sup> Directive 2004/52/EC of the European Parliament and of the Council of 29 April 2004 on the interoperability of electronic road toll systems in the Community (OJ L 166, 30.4.2004, p. 124).

- (1ac) Due to the lack of their consistent classification across the Union, and their indirect link to the use of the infrastructure, parking fees should be left outside the scope of the Directive.
- (1ad) While analysing possible measures to further facilitate the cross-border enforcement of the payments of road fees in the Union, the Commission should also assess in its report the need for mutual assistance between Member States.
- (1b) The interoperability of electronic tolling systems requires a level of harmonisation of the technology used and of the interfaces between interoperability constituents.
- (1c) The harmonisation of technologies and interfaces should be supported by the development and maintenance of appropriate open and public standards, available on a non-discriminatory basis to all system suppliers.
- (1d) For the purpose of covering, with their on-board equipment ('OBE'), the required communication technologies, European Electronic Toll Service ('EETS') providers should be allowed to make use of and link to other hardware and software systems already present in the vehicle such as satellite navigation systems or handheld devices.
- (1e) The specific characteristics of electronic tolling systems which are currently applied to light-duty vehicles should be taken into account. Since no such electronic tolling systems currently use satellite positioning or mobile communications, EETS providers should be allowed, for a limited period of time, to provide light-duty vehicles with OBE suitable for use with the 5.8 GHz technology only. This derogation should be without prejudice to the right of Member States to implement satellite-based tolling for light-duty vehicles.

- (1f) Tolling systems based on automatic number plate reading (ANPR) require more manual checks of toll transactions in the back office than systems using OBE. Systems with OBE are more efficient for large electronic toll domains, and ANPR systems are more suitable for small domains, such as city tolls, where the use of OBE would generate disproportionate costs or administrative burden. ANPR can be useful in particular when combined with other technologies.
- (1g) In consideration of the technical developments of the solutions based on ANPR the standardisation bodies should be encouraged to define the necessary technical norms.
- (1h) The specific rights and obligations of EETS providers should apply to companies which prove the fulfilment of certain requirements and obtain registration as EETS providers in their Member State of establishment.
- (1i) The rights and obligations of the main EETS actors, i.e. EETS providers, Toll Chargers and EETS users, should be clearly defined to ensure that the market functions in a fair and efficient manner.
- (1j) It is particularly important to safeguard certain rights of the EETS providers, such as the right to the protection of commercially sensitive data, without negatively impacting the quality of the services provided to the Toll Chargers and EETS users. In particular, the Toll Charger should be required not to disclose commercially sensitive data to any of the EETS provider's competitors. The amount and type of data which EETS providers communicate to Toll chargers, for the purpose of calculating and applying tolls or to verify the calculation of applied toll on the vehicles of EETS users by the EETS providers, should be limited to a strict minimum.

- (1k) EETS providers should be required to fully cooperate with Toll Chargers in their enforcement efforts, so as to increase the overall efficiency of electronic tolling systems. Therefore, Toll Chargers should be allowed to request from the EETS provider, [...] where a failure to pay a road fee is suspected, data relating to the vehicle and to the owner or holder of the vehicle who is the EETS provider's client, provided that these data is not used for any other purpose than enforcement.
- (1l) In order to allow EETS providers to compete, in a non-discriminatory manner, for all clients in a given EETS domain, it is important that the possibility is given to them to become accredited to that domain sufficiently early to be able to offer services to the users as of the first day of operation of the tolling system.
- (1m) Toll Chargers should give access to their EETS domain to EETS providers on a non-discriminatory basis.
- (1n) To ensure transparency and non-discriminatory access to EETS domains for all EETS providers, Toll Chargers should publish all the necessary information relative to access rights in an EETS domain statement.
- (1o) All OBE user rebates or discounts on tolls offered by a Member State or by a Toll Charger should be available under the same conditions to clients of EETS providers.
- (1p) EETS providers should be entitled to fair remuneration, calculated based on a transparent and non-discriminatory methodology.
- (1pa) Toll chargers should be allowed to deduct from the remuneration of EETS providers the appropriate costs incurred to provide, operate and maintain the EETS-specific elements of the electronic road toll system.

- (1q) EETS providers should pay to the Toll Charger all the toll due by their clients; EETS providers should however not be liable for tolls not paid by their clients, when the latter are equipped with OBE declared to the Toll Charger as invalidated.
- (1r) Where a legal entity being a toll service provider also plays other roles in an electronic toll collection system, or has other activities not directly related with electronic toll collection, it should be required to keep accounting records which allow for a clear distinction of the costs and revenues related to the toll service provision from the costs and revenues related to other activities, and to provide information on those costs and revenues related to the toll service provision to the relevant Conciliation Body or judicial body. Cross subsidies between those different activities should be excluded.
- (1s) Users should have the possibility to subscribe to EETS through any EETS provider, regardless of nationality, Member State of residence or Member State of registration of the vehicle.
- (1t) To avoid double payment and to give users legal certainty, the payment of a toll to an EETS provider should be considered as fulfilling the user's obligations towards the relevant Toll Charger.
- (1ta) The contractual relationships between toll chargers and EETS providers should ensure, *inter alia*, that tolls are paid correctly.
- (1taa) A mediation procedure should be established in view to settle disputes between Toll Chargers and EETS providers during contract negotiations and in their contractual relationships. National Conciliation Bodies should be consulted by Toll Chargers and EETS providers in search of a dispute settlement relating to non-discriminatory access to EETS domains. (1u) The Conciliation Bodies should be empowered to verify that the contractual conditions imposed on any EETS provider are non-discriminatory. In particular, they should be empowered to verify that the remuneration offered by the Toll Charger to the EETS providers respects the principles of this Directive.

- (1u) The Conciliation Bodies should be empowered to verify that the contractual conditions imposed on any EETS provider are non-discriminatory. In particular, they should be empowered to verify that the remuneration offered by the Toll Charger to the EETS providers respects the principles of this Directive.
- (1v) Traffic data of EETS users constitutes essential input for enhancing transport policies of the Member States. Member States should therefore have the possibility to request such data from EETS providers for the purpose of designing traffic policies and enhancing traffic management or for other non-commercial use by the State, in compliance with applicable data protection rules.
- (1w) There is a need to define a framework for the procedures for accrediting EETS providers to an EETS domain, which ensure fair access to the market while safeguarding the correct level of service. The EETS domain statement should set out in detail the procedure of accreditation of an EETS provider to the EETS domain, in particular the procedure for checking conformity to specifications and suitability for use of interoperability constituents. The procedure should be the same for all EETS providers.
- (1z) To ensure easy access to information by EETS market actors, Member States should be required to compile and publish all important data regarding EETS in publicly available national registers.
- (1za) To allow for technological progress, it is important that Toll Chargers have the possibility to test new tolling technologies or concepts. Such tests should however be limited, and EETS providers should not be required to take part in them. The Commission should have the possibility not to authorise such tests if they could bring prejudice to the correct functioning of the regular electronic road toll system.



- (4) Large differences in technical specifications of electronic road toll systems may hamper the achievement of EU-wide interoperability of electronic tolls, and thus contribute to the persistence of the current situation where users need several pieces of on-board equipment to pay tolls in the EU. This situation is detrimental to the efficiency of transport operations, the cost-efficiency of tolling systems and to the achievement of transport policy objectives; the issues behind this situation should therefore be addressed.
- (5) While cross-border interoperability is improving throughout the Union, the mid- to long-term objective is to make it possible to travel across the Union with only one on-board equipment. Therefore, it is important that the Commission set up a roadmap to achieve this objective, in order to avoid administrative burden and costs for road users and to facilitate the free movement of people and goods in the Union, without negatively affecting competition on the market.
- (5c) The EETS is a market-based service and therefore EETS providers should not be obliged to provide their services across the Union. However, in the interest of the users, EETS providers should cover all EETS domains in any Member State in which they decide to provide their services. Furthermore, the Commission should assess whether the flexibility given to EETS providers does not lead to the exclusion from EETS of small or peripheral EETS domains, and take action where necessary.
- (6a) The EETS domain statement should describe in detail the framework commercial conditions for EETS providers' operations in the EETS domain in question. In particular, it should describe the methodology used for calculating the remuneration of EETS providers.

- (6d) Where a new electronic toll collection system is being launched or an existing system is being substantially modified, the Toll Charger should publish the new or updated EETS domain statements with sufficient notice to allow EETS providers to be accredited or re-accredited to the system at the latest one month before the day of its operational launch. The Toll Charger should design and follow the procedure for, respectively, the accreditation or re-accreditation of EETS providers in such a way that the procedure can be concluded at the latest one month before the operational launch of the new or substantially amended system. Toll Chargers should respect their part of the planned procedure as defined in the EETS domain statement.
- (6f) Toll chargers should not request or require from EETS providers any specific technical solutions which could jeopardise interoperability with other EETS domains and with the existing interoperability constituents of the EETS provider.
- (7) The EETS has the potential of considerably reducing the administrative costs and burden of international road transport operators and drivers.
- (7a) EETS providers should be allowed to issue invoices to the users. However, Toll Chargers should be allowed to request that invoices are sent on their behalf and in their name, as invoicing directly in the name of the EETS provider can in certain EETS domains have adverse administrative and tax implications.
- (8a) Each Member State with at least two EETS domains should designate a contact office for EETS providers wishing to provide the EETS in its territory in order to facilitate their contacts with the Toll Chargers.

- (10) Electronic tolling and other services, such as co-operative ITS (C-ITS) applications, use similar technologies and neighbouring frequency bands for short range vehicle-to-vehicle and vehicle-to-infrastructure communication. In the future, the potential for applying other emerging technologies to electronic tolling merit exploration, after a thorough assessment of the costs, benefits, technical barriers and possible solutions thereto. It is important that measures are implemented to protect existing investments in the 5.8 GHz technology from the interference of other technologies.
- (10a) Without prejudice to State aid and competition law, Member States should be allowed to develop measures to promote electronic toll collection and billing.
- (12) When standards relevant for the EETS are reviewed by the standardisation bodies, there should be appropriate transition arrangements to ensure the continuity of the EETS and the compatibility, with the tolling systems, of interoperability constituents already in use at the moment of the revision of the standards.
- (12a) The EETS System should allow intermodality to develop, whilst pursuing compliance with the principle of “user and polluter pays”.
- (13) Problems with identifying non-resident offenders to electronic tolling systems hamper further deployment of such systems and the wider application of the 'user pays' and 'polluter pays' principles on Union roads and therefore there is a need to find a way to identify such persons and process their personal data.
- (14) For reasons of consistency and efficient use of resources, the system for exchanging information on those who fail to pay a road fee, and on their vehicles, should use the same tools as the system used for exchanging information on road-safety-related traffic offenses provided for in Directive (EU) 2015/413 of the European Parliament and of the Council<sup>4</sup>

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<sup>4</sup> 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 (OJ L 68, 13.3.2015, p. 9).

- (14a) In certain Member States a failure to pay a road fee is established only once the obligation to pay the road fee has been notified to the user. Since this Directive does not harmonise national laws in this regard, Member States should have the possibility to apply this Directive to identify users and vehicles for the purpose of notification. However, such extended application should be allowed only if certain conditions are fulfilled.
- (14b) The follow-up proceedings to a failure to pay a road fee are not harmonised across the Union. Often, the identified road user is given the possibility to pay the road fee that is due, or a fixed substitute amount, directly to the entity responsible for levying the road fee, before any further administrative or criminal proceedings are initiated by Member State authorities. It is important that such efficient procedure to put an end to the failure to pay a road fee is available on similar terms to all road users. For this purpose, Member States should be allowed to provide the entity responsible for levying the road fee with the data necessary to identify the vehicle for which there was a failure to pay a road fee and its owner or holder, provided that proper protection of personal data is ensured. In this context Member States should ensure that compliance with the payment order issued by the entity concerned puts an end to the failure to pay a road fee.
- (15a) In certain Member States the absence or dysfunction of OBE is regarded as a failure to pay a road fee where such fees can only be paid by using OBE.
- (16) Member States should provide the Commission with the information and data necessary to evaluate the effectiveness and efficiency of the system for exchanging information on those who fail to pay a road fee. The Commission should assess the data and information obtained, and to propose, if necessary, amendments to the legislation.

- (17) The enforcement of the obligation to pay road fees, the identification of the vehicle and of the owner or holder of the vehicle for which a failure to pay a road fee was established and the collection of information on the user for the purpose of ensuring the compliance of the Toll Charger with its obligations towards tax authorities entail the processing of personal data. Such processing needs to be carried out in accordance with Union rules, as set out, inter alia, in Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>5</sup>, Directive (EU) 2016/680 of the European Parliament and of the Council<sup>6</sup> and Directive 2002/58/EC of the European Parliament and of the Council<sup>7</sup>. The right to protection of personal data is explicitly recognised by Article 8 of the Charter of Fundamental Rights of the European Union.
- (18) This Directive does not affect the Member States' freedom to lay down rules governing road infrastructure charging and taxation matters.

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<sup>5</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p.1),

<sup>6</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

<sup>7</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (OJ L 201, 31.7.2002, p. 37).

- (19) In order to facilitate the cross-border exchange of information on the vehicles and owners or holders of vehicles for which there was a failure to pay road fees, 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 adaptation of Annex II to changes in the Union legislation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (19a) The implementation of this Directive requires uniform conditions for the application of technical and administrative specifications for the deployment, in the Member States, of procedures and interfaces between EETS actors, so as to facilitate interoperability and ensure that national toll collection markets are governed by equivalent rules. In order to ensure uniform conditions for the implementation of this Directive and to define those technical and administrative specifications, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>8</sup>.
- (21) This Directive should be without prejudice to the obligations of the Member States relating to the time-limit for the transposition into national law of the Directive set out in Annex V, Part B.

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<sup>8</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers OJ L 55, 28.2.2011, p. 13.

- (21a) This Directive respects the fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union, notably protection of personal data.
- (22) 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>9</sup>.

HAVE ADOPTED THIS DIRECTIVE:

## **CHAPTER I**

### **GENERAL PROVISIONS**

#### Article 1

#### **Subject-matter and scope**

1. This Directive lays down the conditions necessary for the following purposes:
  - (a) to ensure the interoperability of electronic road toll systems on the entire road network, urban and interurban motorways, major and minor roads, and various structures such as tunnels, bridges and ferries, and
  - (b) to facilitate the cross-border exchange of vehicle registration data regarding the vehicles and the owners or holders of vehicles for which there was a failure to pay road fees of any kind in the Union.

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<sup>9</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).

In order to respect the principle of subsidiarity, this Directive shall apply without prejudice to the decisions taken by Member States to levy fees on particular types of vehicles, and to determine the level of those fees and the purpose for which such fees are levied.

2. Articles 3 to 4p do not apply to:
  - (a) road toll systems which are not electronic within the meaning of Article 2(db);
  - (b) small, strictly local road toll systems for which the costs of compliance with the requirements of Articles 3 to 4p would be disproportionate to the benefits;
- 2a. This Directive does not apply to parking fees.
3. The objective of the interoperability of electronic road toll systems in the Union shall be achieved by means of the European Electronic Toll Service (EETS) which shall be complementary to the national electronic toll services of the Member States.
4. Where the national law requires a notification to the user of the obligation to pay before a failure to pay can be established, Member States may also apply this Directive to identify the owner or the holder of the vehicle where all the following conditions are fulfilled:
  - (b) there are no other means to identify the owner or holder of the vehicle; and
  - (c) the notification to the owner or holder of the vehicle of the obligation to pay is a compulsory stage of the procedure of payment of the road fee under the national law.
5. Where a Member State has opted to apply paragraph 4, it shall take the necessary measures to ensure that any follow-up proceedings in relation to the obligation to pay the road fee are carried out by public authorities. References to failure to pay a road fee in this Directive shall encompass cases covered by paragraph 4 where the Member State where the failure to pay takes place apply that paragraph.



## Article 2

### Definitions

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

- (a) 'toll service' means the service enabling users having one contract and, where necessary, one set of on-board equipment (OBE) to use a vehicle in one or more EETS domains. It includes notably:
- where necessary, providing a customised OBE to users and maintaining its functionality;
  - guaranteeing that the Toll Charger is paid the toll due by the user;
  - providing the payment means to the user or accepting an existing one;
  - collecting the toll from the user;
  - managing customer relations with the user;
  - implementing and adhering to the security and privacy policies for the toll systems.
- (aa) 'toll service provider' means a legal entity providing toll services on one or more EETS domains for one or more classes of vehicles;
- (b) 'Toll Charger' means a public or private entity which levies tolls for the circulation of vehicles in an EETS domain;
- (ba) 'designated Toll Charger' means a public or private entity which has been appointed as the Toll Charger in a future EETS domain;
- (c) 'EETS provider' means an entity which, under separate contracts, grants access to EETS to an EETS user, transfers the tolls to the relevant Toll Charger, and which is registered by its Member State of establishment;
- (d) 'EETS user' means a natural or legal person who has a contract with an EETS provider in order to have access to the EETS;

- (da) 'EETS' means the toll service provided under a contract on one or more EETS domains by an EETS provider to an EETS user;
- (db) 'electronic road toll system' means a toll collection system in which the obligation, for the user, to pay the toll is exclusively triggered by and linked to the automatic detection of the presence of the vehicle in a certain location through remote communication with OBE in the vehicle or automatic number plate recognition;
- (e) 'EETS domain' means a road, a road network, a structure such as a bridge or a tunnel, or a ferry, where tolls are collected using an electronic road toll system;
- (ea) 'EETS compliant system' means the set of elements of an electronic road toll system which are specifically needed for the integration of EETS providers in the system and for the operation of EETS;
- (f) 'on-board equipment', (OBE), means the complete set of hardware and software components to be used as part of the toll service which is installed or carried on board a vehicle in order to collect, store, process and remotely receive/transmit data. OBE may be a separate device or embedded into the vehicle;
- (fa) 'main service provider' means a toll service provider with specific obligations, such as the obligation to sign contracts with all interested users, or specific rights, such as specific remuneration or a guaranteed long term contract, different from the rights and obligations of other service providers;
- (fb) 'interoperability constituent' means any elementary component, group of components, subassembly or complete assembly of equipment incorporated or intended to be incorporated into EETS upon which the interoperability of the service depends directly or indirectly, including both tangible objects and intangible objects such as software;
- (fc) 'suitability for use' means the ability of an interoperability constituent to achieve and maintain a specified performance when in service, integrated representatively into EETS in relation with a Toll Charger's system;

- (fe) ‘Toll Context Data’ means the information defined by the responsible Toll Charger necessary to establish the toll due for circulating a vehicle on a particular toll domain and conclude the toll transaction;
- (ff) ‘toll declaration’ means a statement to a Toll Charger that confirms the presence of a vehicle in an EETS domain in a format agreed between the toll service provider and the Toll Charger;
- (fg) ‘vehicle classification parameters’ means the vehicle related information according to which tolls are calculated based on the Toll Context Data;
- (fh) 'back office' means the central electronic system used by the Toll Charger, a group of Toll Chargers who have created an interoperability hub, or by the EETS provider to collect, process and send information in the framework of an electronic road toll system;
- (fi) 'substantially modified system' means an existing electronic road toll system that has undergone or undergoes a change which requires EETS providers to make modifications to the interoperability constituents that are in operation, such as reprogramming or adapting the interfaces of their back office, to such an extent that re-accreditation is required;
- (fj) 'accreditation' means the process defined and managed by the Toll Charger, which an EETS provider must undergo before it is authorised to provide the EETS in an EETS domain.
- (g) 'toll' or 'road fee' mean the fee which must be paid by the road user for circulating on a given road, road network, structure such as a bridge or tunnel, or ferry;
- (h) 'failure to pay a road fee' means the offense consisting of the failure by a road user to pay a road fee in a Member State, defined by the relevant national provisions of that Member State;
- (i) ‘Member State of registration’ means the Member State where the vehicle which is subject to the payment of the road fee is registered;
- (j) ‘national contact point’ means a designated competent authority of a Member State for the cross-border exchange of vehicle registration data;

- (k) 'automated search' means an online access procedure for consulting the databases of one, more than one, or all of the Member States;
- (l) 'vehicle' means a motor vehicle, or articulated vehicle combination intended or used for the carriage by road of passengers or goods;
- (m) '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;
- (n) 'heavy-duty vehicle' means a vehicle having a maximum permissible mass exceeding 3.5 tonnes;
- (o) 'light-duty vehicle' means a vehicle having a maximum permissible weight not exceeding 3.5 tonnes.

### Article 3

#### **Technological solutions**

1. All new electronic road toll systems which require the installation or use of OBE shall, for carrying out electronic toll transactions, use one or more of the following technologies:
  - (a) satellite positioning;
  - (b) mobile communications;
  - (c) 5.8 GHz microwave technology.

Existing electronic road toll systems which require the installation or use of OBE and use other technologies shall comply with the requirements set out in the first subparagraph of this paragraph if substantial technological improvements are carried out.

- 1a. The Commission shall request the relevant standardisation bodies in accordance with the procedure laid down by Directive 2015/1535/EU of the European Parliament and of the Council<sup>10</sup> to swiftly adopt standards applicable to electronic road toll systems with regard to the technologies listed in the first subparagraph of paragraph 1 and the ANPR technology, and to update them where necessary. The Commission shall request that the standardisation bodies ensure the continual compatibility of interoperability constituents.
2. OBE which uses satellite positioning technology and is placed on the market after [*OJ insert date: 30 months after date of entry into force*] shall be compatible with the positioning services provided by the Galileo and the European Geostationary Navigation Overlay Service ('EGNOS') systems.
3. Without prejudice to paragraph 5, EETS providers shall make available to users OBE which is suitable for use, interoperable and capable of communicating with the relevant electronic road toll systems in service in the Member States using the technologies listed in paragraph 1.
4. The OBE may use its own hardware and software, use elements of other hardware and software present in the vehicle, or both. For the purpose of communicating with other hardware systems present in the vehicle, the OBE may use technologies other than those listed in the first subparagraph of paragraph 1, provided that security, quality of service and privacy are ensured. EETS OBE is allowed to facilitate other services than tolling, provided that the operation of such services does not interfere with the toll services in any EETS domain.
5. Without prejudice to the right of Member States to introduce electronic road toll systems for light-duty vehicles based on satellite positioning or mobile communications, EETS providers may provide until 31 December 2027 users of light-duty vehicles with OBE suitable for use only with the 5.8 GHz microwave technology to be used in EETS domains which do not require satellite positioning or mobile communications technologies.

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<sup>10</sup> Directive 2015/1535/EU of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

**CHAPTER II**  
**GENERAL PRINCIPLES OF EETS**

Article 4

**Registration of EETS providers**

Each Member State shall establish a procedure for registering EETS providers. It shall grant the registration to entities which are established on its territory, which request registration and which can demonstrate the fulfilment of the following requirements:

- (a) hold EN ISO 9001 certification or equivalent;
- (b) demonstrate having the technical equipment and the EC declaration or certificate attesting the conformity of the interoperability constituents to specifications;
- (c) demonstrate competence in the provision of electronic toll services or in other relevant domains;
- (d) have appropriate financial standing;
- (e) maintain a global risk management plan, which is audited at least every two years;
- (f) be of good repute.

Article 4a

**Rights and obligations of EETS Providers**

1. Member States shall take the necessary measures to ensure that EETS providers whom they have registered conclude EETS contracts covering all EETS domains on the territories of at least four Member States within 36 months following their registration accordance with Article 4. They shall take the necessary measures to ensure that that those EETS providers conclude contracts covering all EETS domain in a given Member State within 24 months from concluding the first contract in that Member State, except for those EETS domains in which the responsible Toll Chargers do not comply with the provisions of Article 4b(3).

2. Member States shall take the necessary measures to ensure that EETS providers whom they have registered maintain at all times the coverage of all EETS domains once they have concluded contracts therefor. They shall take the necessary measures to ensure that, where an EETS provider is not able to maintain coverage of an EETS domain because the Toll Charger does not comply with the provisions of this Directive, it re-establishes the coverage of the concerned domain as soon as possible.
3. Member States shall take the necessary measures to ensure that EETS providers whom they have registered publish information on their EETS domains coverage and any changes thereto as well as, within one month of registration, detailed plans regarding any extension of their service to further EETS domains, with annual updates.
4. Member States shall take the necessary measures to ensure that, where necessary, EETS providers whom they have registered, or who provide the EETS on their territory, provide EETS users with OBE which fulfils the requirements of this Directive, as well as in Directive 2014/53/EU of the European Parliament and of the Council and Directive 2014/30/EU of the European Parliament and of the Council. They may request from concerned EETS providers evidence that those requirements are fulfilled.
7. Member States shall take the necessary measures to ensure that EETS providers who provide the EETS on their territory keep lists of invalidated OBE related to their EETS contracts with the EETS users. They shall take the necessary measures to ensure that such lists are maintained in strict compliance with the Union rules on the protection of personal data as set out, inter alia, in Regulation (EU) 2016/679 and Directive 2002/58/EC.
8. Member States shall take the necessary measures to ensure that EETS providers whom they registered make public their contracting policy towards EETS users.
10. Member States shall take the necessary measures to ensure that EETS providers who provide the EETS on their territory provide Toll Chargers with the information they need to calculate and apply the toll on the vehicles of EETS users or provide Toll Chargers with all necessary information to allow them to verify the calculation of applied toll on the vehicles of EETS users by the EETS providers.

12. Member States shall take the necessary measures to ensure that EETS providers who provide the EETS on their territory cooperate with Toll Chargers in their efforts to identify suspected offenders. Member States shall take the necessary measures to ensure that, where a failure by a road user to pay a road fee is suspected, the Toll Charger is able to obtain from the EETS provider the data relating to the vehicle involved in the suspected failure to pay a road fee and to the owner or holder of that vehicle who is a client of this EETS provider. Such data shall be made available instantly by the EETS provider.

Member States shall take the necessary measures to ensure that the Toll Charger does not disclose such data to any other toll service provider. They shall take the necessary measures to ensure that, where the Toll Charger is integrated with a toll service provider in one entity, the data is used for the sole purpose of identifying suspected offenders, or in accordance with Article 8(2a).

13. Member States shall take the necessary measures to ensure that a Toll Charger responsible for an EETS domain on their territory is able to obtain from an EETS provider data relating to all vehicles owned or held by clients of the provider, which have, in a given period of time, driven on the EETS domain for which the Toll Charger is responsible, as well as data relating to the owners or holders of these vehicles, in as much as the Toll Charger needs this data to comply with its obligations towards tax authorities. Member States shall take the necessary measures to ensure that the EETS provider provides the requested data no later than two days after receiving the request. They shall take the necessary measures to ensure that the Toll Charger does not disclose such data to any other toll service provider. They shall take the necessary measures to ensure that, where the Toll Charger is integrated with a toll service provider in one entity, the data is used for the sole purpose of the Toll Charger complying with its obligations towards tax authorities.

14. The data provided by EETS providers to Toll Chargers shall be treated in compliance with Union rules on the protection of personal data as set out in Regulation (EU) 2016/679, as well as the national laws, regulations or administrative provisions transposing Directives 2002/58/EC and 2016/680.



17. The Commission shall adopt implementing acts, at the latest by [6 months after the entry into force of this Directive], to further define the obligations of the EETS providers regarding:
- monitoring the performance of their service level, and cooperation with Toll Chargers in verification audits;
  - cooperation with Toll Chargers in the performance of Toll Chargers' systems' tests;
  - service and technical support to EETS users and personalisation of on-board equipment;
  - the invoicing of EETS users;
  - the information which EETS providers must provide to Toll Chargers and which is referred to in paragraph 10;
  - informing the EETS user of a detected toll non-declaration situation.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11a(2).

#### Article 4b

#### **Rights and obligations of Toll Chargers**

1. Where an EETS domain does not comply with the technical and procedural EETS interoperability conditions set out by this Directive, the Member State on whose territory lies the EETS domain shall take the necessary measures to ensure that the responsible Toll Charger assesses the problem with the involved stakeholders and, if within its sphere of responsibilities, takes remedial actions in view to ensure EETS interoperability of the toll system. Where necessary, the Member State shall update the register referred to under Article 4o(1)(a).
2. Each Member State shall take the necessary measures to ensure that any Toll Charger responsible for an EETS domain on the territory of that Member State develops and maintains an EETS domain statement setting out the general conditions for EETS providers for accessing their EETS domains, in accordance with the act referred to in paragraph 11.

- 2a. Where a new electronic toll collection system is created on the territory of a Member State, that Member State shall take the necessary measures to ensure that the designated Toll Charger responsible for the system publishes the EETS domain statement with sufficient notice to allow for an accreditation of interested EETS providers at the latest one month before the operational launch of the new system, with due regard to the length of the process of assessment of the conformity to specifications and of the suitability for use of interoperability constituents referred to in Article 4j(3).
3. Where an electronic toll collection system on the territory of a Member State is substantially modified, that Member State shall take the necessary measures to ensure that the Toll Charger responsible for the system publishes the revised EETS domain statement with sufficient notice to allow already accredited EETS providers to adapt their interoperability constituents to the new requirements and obtain re-accreditation at the latest one month before the operational launch of the modified system, with due regard to the length of the process of assessment of the conformity to specifications and of the suitability for use of interoperability constituents referred to in Article 4j(3).
- 3a. Member States shall take the necessary measures to ensure that Toll Chargers responsible for EETS domains on their territory accept on a non-discriminatory basis any EETS provider requesting to provide EETS on the said EETS domain(s).

Acceptance of an EETS provider in a EETS domain shall be subject to the provider's compliance with the obligations and general conditions set out in the EETS domain statement.

Member States shall take the necessary measures to ensure that Toll chargers do not require EETS providers to use specific technical solutions or processes which hinder the interoperability of an EETS provider's interoperability constituents with electronic road toll systems in other EETS domains.

If a Toll Charger and an EETS provider cannot reach an agreement, the matter may be referred to the Conciliation Body responsible for the relevant toll domain.

4. Each Member State shall take the necessary measures to ensure that the contracts between the Toll Charger and the EETS provider, regarding the provision of EETS on the territory of that Member State, permit that the invoice for the toll is issued to the EETS user directly by the EETS provider. The Toll Charger may require that the EETS provider invoices the user in the name and on behalf of the toll charger, and the EETS provider shall comply with that request.
6. The toll charged by Toll Chargers to EETS users shall not exceed the corresponding national or local toll. This is without prejudice to the right of Member States to introduce rebates or discounts to promote the use of electronic toll payments. All OBE user rebates or discounts on tolls offered by a Member State or by a Toll Charger shall be transparent, publicly announced and available under the same conditions to clients of EETS providers.
7. Member States shall take the necessary measures to ensure that Toll Chargers accept on their EETS domains any operational OBE from EETS providers with whom they have contractual relationships which have been certified in accordance with the procedure defined in the act referred to in Article 4j(8) and which do not appear on a list of invalidated OBE referred to in Article 4a(7).
- 7a. In the event of an EETS dysfunction attributable to the Toll Charger, the Toll Charger shall provide for a degraded mode of service enabling vehicles with the equipment referred to in paragraph 7 to circulate safely with a minimum of delay and without being suspected of failure to pay a road fee.
10. Member States shall take the necessary measures to ensure that Toll Chargers collaborate in a non-discriminatory way with EETS providers or manufacturers or notified bodies with a view to assessing the suitability for use of interoperability constituents on their EETS domains.
11. The Commission shall adopt implementing acts, at the latest by [6 months after the entry into force of this Directive], to lay down the minimum content of the EETS domain statement, including:
  - the requirements towards EETS providers

- the procedural conditions including commercial conditions
- the procedure of accreditation of EETS providers, and
- the toll context data.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11a(2).

#### Article 4c

#### **Remuneration**

1. Member States shall take the necessary measures to ensure that EETS providers are entitled to remuneration by the Toll Charger.
2. Member States shall take the necessary measures to ensure that the methodology for defining the remuneration of the EETS providers is transparent, non-discriminatory and the same for all EETS providers accredited to a given EETS domain. They shall take the necessary measures to ensure that the methodology is published as part of the commercial conditions in the EETS Domain Statement.
3. Member States shall take the necessary measures to ensure that in EETS domains with a main service provider, the methodology for calculating the remuneration of EETS providers follows the same structure as the remuneration of comparable services provided by the main service provider. The amount of remuneration of EETS providers may differ from the remuneration of the main service provider in as much as it is justified by:
  - (a) the cost of specific requirements and obligations of the main service provider and not of the EETS providers;
  - (b) the need to deduct from the remuneration of EETS providers the fixed charges imposed by the Toll Charger based on the costs, for the Toll Charger, to provide, operate and maintain an EETS compliant system in its toll domain, including costs of accreditation, where such costs are not included in the toll.

## Article 4d

### Tolls

1. Member States shall take the necessary measures to ensure that where, for the purpose of establishing the toll tariff applicable to a given vehicle, there is discrepancy between the vehicle classification used by the EETS provider and the Toll Charger, the Toll Charger's classification prevails, unless an error can be demonstrated.
2. Member States shall take the necessary measures to ensure that the Toll Charger is entitled to require from an EETS provider payment for any substantiated toll declaration and any substantiated toll non-declaration relative to any user account managed by that EETS provider.
3. Member States shall take the necessary measures to ensure that where an EETS provider has sent a Toll Charger a list of invalidated OBE referred to in Article 4a(7), the EETS provider shall not be held liable for any further toll incurred through the use of such invalidated OBE. The number of entries in the list of invalidated OBE, the list's format and its updating frequency shall be agreed between Toll Chargers and EETS providers
4. Member States shall take the necessary measures to ensure that in microwave-based toll systems Toll Chargers communicate substantiated toll declarations to EETS providers for tolls incurred by their respective EETS users.
5. The Commission shall adopt delegated acts in accordance with Article 11, at the latest by [6 months after the entry into force of this Directive], to lay down the details for the classification of vehicles for the purposes of establishing the applicable tariff schemes, including any procedures necessary for establishing such schemes. The set of vehicle classification parameters to be supported by EETS shall not restrict the choice of tariff schemes by Toll Chargers. The Commission shall ensure sufficient flexibility to allow the set of classification parameters to be supported by EETS to evolve according to foreseeable future needs. Those acts shall be without prejudice to the definition, in Directive 1999/62/EC, of the parameters according to which tolls shall vary.

## Article 4e

### **Accounting**

Member States shall take the necessary measures to ensure that legal entities which provide toll services keep accounting records which allow for a clear distinction of the costs and revenues related to the toll service provision from the costs and revenues related to other activities. The information on the costs and revenues related to the toll service provision shall be provided, upon request, to the relevant Conciliation Body or judicial body. Member States shall also take the necessary measures to ensure that cross subsidies between the activities performed in the role of toll service provider and other activities are excluded.

## Article 4f

### **Rights and obligations of EETS users**

1. Member States shall take the necessary measures to allow EETS users to subscribe to EETS through any EETS provider, regardless of nationality, Member State of residence or the Member State in which the vehicle is registered. When entering into a contract, EETS users shall be duly informed about valid means of payment and, in accordance with Regulation 2016/679/EU, about the processing of their personal data and the rights stemming from applicable legislation on the protection of personal data.
6. The payment of a toll by an EETS user to its EETS provider shall be deemed to fulfil the EETS user's payment obligations towards the relevant Toll Charger.

If two or more OBE are installed or carried on-board a vehicle, it is the responsibility of the EETS user to use or activate the relevant OBE for the specific EETS domain.

7. The Commission shall adopt delegated acts, at the latest by [6 months after the entry into force of this Directive], to further define the obligations of the EETS users regarding:
  - the provision of data to the EETS provider;
  - the use and handling of the OBE.

**CHAPTER III**  
**CONCILIATION BODY**

Article 4g

**Establishment and functions**

1. Each Member State with at least one EETS domain shall designate or establish a Conciliation Body in order to facilitate mediation between Toll Chargers with an EETS domain located within its territory and EETS providers which have contracts or are in contractual negotiations with those Toll Chargers.
2. The Conciliation Body shall be empowered, in particular, to verify that the contractual conditions imposed by a Toll Charger on EETS providers are non-discriminatory. It shall be empowered to verify that the EETS is remunerated in line with the principles provided for in Article 4c.
3. The Member States referred to in paragraph 1 shall take the necessary measures to ensure that their Conciliation Body is independent in its organisation and legal structure from the commercial interests of Toll Chargers and toll service providers.

Article 4ga

**Mediation procedure**

1. Each Member State referred to in Article 4g(1) shall lay down a mediation procedure in order to enable a Toll Charger or an EETS provider to request the relevant Conciliation Body to intervene in any dispute relating to their contractual relations or negotiations.
2. The procedure referred to in paragraph 1 shall foresee that the Conciliation Body states within a period of one month following the receipt of a request for it to intervene whether all documents necessary for the mediation are in its possession.
3. The procedure referred to in paragraph 1 shall foresee that the Conciliation Body issue its opinion on a dispute no later than six months after receipt of the request for it to intervene.

4. In order to facilitate its tasks, Member States shall empower the Conciliation Body to request relevant information from Toll Chargers, EETS providers and any third parties active in the provision of EETS within the Member State concerned.
5. The Member States referred to in Article 4g(1) and the Commission shall take the necessary measures to ensure the exchange of information between the Conciliation Bodies concerning their work, guiding principles and practices.



**CHAPTER IV**  
**TECHNICAL PROVISIONS**

Article 4h

**Single continuous service**

Member States shall take the necessary measures to ensure that EETS is provided to EETS users as a single continuous service. This means that:

- (a) once the vehicle classification parameters, including the variable ones, have been stored and/or declared no further in-vehicle human intervention is required during a journey unless there is a modification to the vehicle's characteristics;
- (b) human interaction with a particular piece of OBE stays the same whatever the EETS domain.

Article 4i

**Additional elements regarding EETS**

- 2a. Member States shall take the necessary measures to ensure that the interaction of EETS users with Toll Chargers as part of EETS is limited, where applicable, to the invoicing process in accordance with Article 4b(4) and to enforcement processes. Interactions between EETS users and EETS providers, or their OBE, can be specific to each EETS provider without compromising EETS interoperability.
- 3. Member States may require that toll service providers, including EETS providers, on the request of the Member States authorities, provide traffic data of their clients, subject to compliance with the applicable data protection rules. Such data may only be used by the Member States for the purpose of traffic policies and enhancing traffic management and the data shall not be used to identify the clients.

4. The Commission shall adopt, at the latest by [6 months after the entry into force of this Directive], implementing acts regarding the specifications of electronic interfaces between the interoperability constituents of Toll Chargers, EETS providers and EETS users, including where applicable the content of the messages exchanged between the actors through these interfaces. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11a(2).

#### Article 4j

##### **Interoperability constituents**

3. Where a new electronic road toll system is created on the territory of a Member State, that Member State shall take the necessary measures to ensure that the designated Toll Charger responsible for the system establishes and publishes in the EETS domain statement the detailed planning of the process of assessment of the conformity to specifications and of the suitability for use of interoperability constituents, which allows for the accreditation of interested EETS providers at the latest one month before the operational launch of the new system.

Where an electronic road toll system on the territory of a Member State is substantially modified, that Member State shall take the necessary measures to ensure that the Toll Charger responsible for the system establishes and publishes in the domain statement, in addition to the elements referred to in the first subparagraph, the detailed planning of the re-assessment of the conformity to specifications and of the suitability for use of the interoperability constituents of EETS providers already accredited to the system before its substantial modification. The planning shall allow for the re-accreditation of concerned EETS providers at the latest one month before the operational launch of the modified system.

The Toll Charger shall be bound to respect its side of the planning.

4. Member States shall take the necessary measures to ensure that each Toll Charger responsible for an EETS domain on the territory of that Member States sets up a test environment in which the EETS provider or its authorised representatives may check that its OBE is suitable for use in the Toll Charger's EETS domain and obtain certification of the successful completion of the respective tests. Member States shall take the necessary measures to allow Toll Chargers to set up a single test environment for more than one EETS domain, and to allow one authorised representative to check the suitability for use of one type of OBE on behalf of more than one EETS provider.

Member States shall take the necessary measures to allow Toll Chargers to require EETS providers or their authorised representatives to cover the cost of the respective tests

6. Member States shall not prohibit, restrict or hinder the placing on the market of interoperability constituents for use in EETS where they bear the CE marking or declaration of conformity to specifications and/or suitability for use. In particular, they shall not require checks which have already been carried out as part of the procedure for checking conformity to specifications and/or suitability for use.
7. The Commission shall adopt delegated acts in accordance with Article 11, at the latest by [6 months after the entry into force of this Directive], to lay down the requirements for interoperability constituents regarding safety and health, reliability and availability, environment protection, technical compatibility, security and privacy and operation and management.
- 7a. The Commission shall also adopt delegated acts, in accordance with Article 11, at the latest by [6 months after the entry into force of this Directive], to lay down the general infrastructure requirements regarding:
- accuracy of toll declaration data with a view to guaranteeing equality of treatment between EETS Users in respect of tolls and charges;
  - identification through the OBE of the responsible EETS provider;
  - use of open standards for the interoperability constituents of the EETS equipment;

- integration of the OBE in the vehicle;
- signalisation to the driver of the requirement to pay a road fee.

7b. The Commission shall adopt implementing acts, at the latest by [6 months after the entry into force of this Directive], to lay down the following specific infrastructure requirements:

- requirements on common communication protocols between toll chargers and EETS providers equipment;
- requirements on mechanisms for toll chargers to detect whether a vehicle circulating on their EETS domain is equipped with a valid and functioning EETS OBE;
- requirements on the human-machine interface in the OBE;
- requirements applying specifically to interoperability constituents in microwave technologies-based tolling systems;
- requirements applying specifically in Global Navigation Satellite System (GNSS)-based tolling systems.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11a(2).

8. The Commission shall adopt implementing acts, at the latest by [6 months after the entry into force of this Directive], to lay down the procedure to be applied by the Member States for assessing the conformity to specifications and suitability for use of interoperability constituents, including the content and format of the EC declaration.

**CHAPTER V**  
**SAFEGUARD CLAUSES**

Article 4k

**Safeguard procedure**

1. Where a Member State has reason to believe that interoperability constituents bearing a CE marking and placed on the market are unlikely, when used as intended, to meet the relevant requirements, it shall take all necessary steps to restrict their field of application, prohibit their use or withdraw them from the market. The Member State shall forthwith inform the Commission of the measures taken and give the reasons for its decision, stating in particular whether failure to conform is due to:
  - (a) incorrect application of technical specifications;
  - (b) inadequacy of technical specifications.
2. The Commission shall consult the concerned Member State, manufacturer, EETS provider or their authorised representatives established within the Union as quickly as possible. Where, following that consultation the Commission establishes that:
  - (a) the measure is justified, it shall forthwith inform the Member State concerned as well as the other Member States.
  - (b) the measure is unjustified, it shall forthwith inform the Member State concerned, as well as the manufacturer or its authorised representative established within the Union and the other Member States.
3. Where interoperability constituents bearing the CE marking fail to comply with interoperability requirements, the competent Member State shall require the manufacturer or its authorised representative established in the Union to restore the interoperability constituent to a state of conformity to specifications and/or suitability for use under the conditions laid down by that Member State and shall inform the Commission and the other Member States thereof.

## Article 4l

### **Transparency of conformity assessments**

Any decision taken by a Member State or a Toll Charger concerning the assessment of conformity to specifications or suitability for use of interoperability constituents and any decision taken pursuant to Article 4k shall set out in detail the reasons on which it is based. It shall be notified as soon as possible to the concerned manufacturer, EETS provider or their authorised representatives, together with an indication of the remedies available under the laws in force in the Member State concerned and of the time limits allowed for the exercise of such remedies.

**CHAPTER VI**  
**ADMINISTRATIVE ARRANGEMENTS**

Article 4la

**Single contact office**

Each Member State with at least two EETS domains on its territory shall designate a single contact office for EETS providers. The Member State shall make public the contact details of this office, and provide them, upon request, to interested EETS providers. It shall take the necessary measures to ensure that, upon request of the EETS provider, the contact office facilitates and coordinates early administrative contacts between the EETS provider and the Toll Chargers responsible for the EETS domains on the territory of the Member State. The contact office may be a natural person, a public or a private body.

Article 4m

**Notified bodies**

1. Member States shall notify to the Commission and the other Member States any bodies entitled to carry out or supervise the procedure for the assessment of conformity to specifications or suitability for use referred to in the act referred to in Article 4j(8), indicating each body's area of competence, and the identification numbers obtained in advance from the Commission. The Commission shall publish in the Official Journal of the European Union the list of bodies, their identification numbers and areas of competence, and shall keep the list updated.
2. Member States shall apply the criteria provided for in the act referred to in paragraph 5 for the assessment of the bodies to be notified. Bodies meeting the assessment criteria provided for in the relevant European standards shall be deemed to meet the said criteria.

3. A Member State shall withdraw approval from a body which no longer meets the criteria provided for in the act referred to in paragraph 5. It shall forthwith inform the Commission and the other Member States thereof.
4. Where a Member State or the Commission considers that a body notified by another Member State does not meet the criteria provided for in the act referred to in paragraph 5, the matter shall be referred to the Electronic Toll Committee, which shall deliver its opinion within three months. In the light of the opinion of the Committee, the Commission shall inform the Member State which notified the body in question of any changes that are necessary for the notified body to retain the status conferred upon it.
5. The Commission shall adopt delegated acts, at the latest by [6 months after the entry into force of this Directive], to lay down the minimum criteria of eligibility for notified bodies.

#### Article 4n

### **Coordination Group**

A Coordination Group of the bodies notified under Article 4m(1) ('the Coordination Group') shall be set up as a working group of the Electronic Toll Committee, in accordance with the Committee's Rules of Procedure.

#### Article 4o

### **Registers**

1. For the purposes of the implementation of this Directive, each Member State shall keep a national electronic register of the following:
  - (a) the EETS domains within their territory, including information relating to:
    - (i) the corresponding Toll Chargers;
    - (ii) the tolling technologies employed;



- (iii) the Toll Context Data;
  - (iv) the EETS domain statement; and
  - (v) the EETS providers having EETS contracts with the Toll Chargers active in their area of competence.
- (b) the EETS providers to whom it has granted registration according to Article 4.
  - (c) the details of a contact office referred to in Article 4la for EETS including a contact e-mail address and telephone number.

Unless otherwise specified, Member States shall verify at least once a year that the requirements in points (a), (d), (e) and (f) of Article 4 are still met and update the register accordingly. The register shall also contain the conclusions of the audit provided for in point (e) of Article 4. A Member State shall not be held liable for the actions of the EETS providers mentioned in its register.

2. Member States shall take the necessary measures to ensure that all the data contained in the national electronic register is kept up-to-date and is accurate.
3. The registers shall be electronically accessible to the public.
4. These registers shall be available as of [30 months after the entry into force of this Directive].
5. The Member States authorities in charge of the registers shall communicate by electronic means to the Commission the registers of EETS domains and EETS providers at the end of each calendar year. The Commission shall make the information available to other Member States. Any inconsistencies with the situation in a Member State shall be brought to the attention of the Member State of registration and of the Commission.

**CHAPTER VII**  
**PILOT SYSTEMS**

Article 4p

**Pilot toll systems**

1. To allow for EETS technical development Member States may temporarily authorise, on limited parts of their toll domain and in parallel to the EETS compliant system, pilot toll systems incorporating new technologies or new concepts which do not comply with one or more provisions of this Directive.
3. EETS providers shall not be required to participate in pilot toll systems.
4. Before starting a pilot toll system, the concerned Member State shall request the authorisation of the Commission. The Commission shall issue the authorisation or refuse it, in the form of a Decision, within 6 months from the moment it received the request. The Commission may refuse the authorisation if the pilot may bring prejudice to the correct functioning of the regular electronic road toll system or of the EETS. The initial period of such authorisation shall not exceed three years.

## CHAPTER VIII

### EXCHANGE OF INFORMATION ON THE FAILURE TO PAY ROAD FEES

#### Article 5

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

1. In order to allow the identification of the vehicle and the owner or holder of the vehicle for which a failure to pay a road fee was established, each Member State shall grant access only to other Member States' national contact points to the following national vehicle registration data, with the power to conduct automated searches thereon:

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

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

2. For the purposes of the exchange of data referred to in paragraph 1, each Member State shall designate a national contact point. Member States shall take the necessary measures to ensure that the exchange of information between Member States take place only between the national contact points. The powers of the national contact points shall be governed by the applicable law of the Member State concerned. In this process, particular attention should be paid to the proper protection of personal data.
3. When conducting an automated search in the form of an outgoing request, the national contact point of the Member State in whose territory there was a failure to pay a road fee shall use a full registration number.

Those automated searches shall be conducted in compliance with the procedures referred to in points 2 and 3 of Chapter 3 of the Annex to Council Decision 2008/616/JHA<sup>11</sup> and with the requirements of Annex II to this Directive.

The Member State in whose territory there was a failure to pay a road fee shall use the data obtained in order to establish who is liable for the failure to pay that fee.

4. Member States shall take the necessary measures to ensure that the exchange of information is carried out using the European Vehicle and Driving Licence Information System (Eucaris) software application and amended versions of this software, in compliance with Annex II to this Directive and with points 2 and 3 of Chapter 3 of the Annex to Decision 2008/616/JHA.
5. Each Member State shall bear its own costs arising from the administration, use and maintenance of the software applications referred to in paragraph 4.

## Article 6

### **Information letter on the failure to pay a road fee**

1. The Member State in whose territory there was a failure to pay a road fee shall decide whether or not to initiate follow-up proceedings in relation to the failure to pay a road fee.

Where the Member State in whose territory there was a failure to pay a road fee decides to initiate such proceedings, that Member State shall, in accordance with its national law, inform the owner, the holder of the vehicle or the otherwise identified person suspected of failing to pay the road fee. This information shall, as applicable under national law, include the legal consequences thereof within the territory of the Member State in which there was a failure to pay a road fee under the law of that Member State.

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<sup>11</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).

2. When sending the information letter to the owner or the holder of the vehicle or to the otherwise identified person suspected of failing to pay the road fee, the Member State in whose territory there was a failure to pay a road fee shall, in accordance with its national law, include any relevant information, notably the nature of the failure to pay the road fee, the place, date and time of the failure to pay the road fee, the title of the texts of the national law infringed, the right to object and to have access to information, and the sanction and, where appropriate, data concerning the device used for detecting the failure to pay a road fee. For that purpose, the Member State in whose territory there was a failure to pay a road fee shall base the information letter on the template set out in Annex III.
3. Where the Member State in whose territory there was a failure to pay a road fee decides to initiate follow-up proceedings in relation to the failure to pay a road fee, it shall, for the purpose of ensuring the respect of fundamental rights, send 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 6b

### **Follow-up proceedings by the levying entities**

1. The Member State on whose territory there was a failure to pay a road fee may provide to the entity responsible for levying the road fee the data obtained through the procedure referred to in Article 5(1) only if the following conditions are met:
  - (a) the data transferred is limited to what is needed by that entity to obtain the road fee that is due;
  - (b) the procedure for obtaining the road fee that is due complies with the procedure provided for in Article 6;
  - (c) the entity concerned is responsible for carrying out this procedure; and

- (d) compliance with the payment order issued by the entity receiving the data puts an end to the failure to pay a road fee.
2. Member States shall ensure that the data provided to the responsible entity is used for the sole purpose of obtaining the road fee that is due and is immediately deleted once the road fee is paid or, if the failure to pay persists, within a reasonable period after the transfer to be set by the Member State.

## Article 7

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

Each Member State shall send a comprehensive report to the Commission by [4 years after the entry into force of this Directive] and every three years thereafter.

The comprehensive report shall indicate the number of automated searches conducted by the Member State in whose territory there was a failure to pay a road fee addressed to the national contact point of the Member State of registration, following failures to pay road fees that occurred on its territory, together with 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 concerning the failures to pay road fees, based on the proportion of such failures to pay road fees which have been followed up by information letters.

## Article 8

### **Data protection**

1. The provisions of Regulation (EU) 2016/679 and the national laws, regulations or administrative provisions transposing Directives 2002/58/EC and (EU) 2016/680 shall apply to personal data processed under this Directive.
2. Member States shall take the necessary measures, in accordance with applicable data protection legislation, to ensure that:
  - the processing of personal data for the purposes of Articles 5 and 6 is limited to the types of data listed in Annex II;

- personal data is accurate, kept up-to date and that requests for rectification or erasure are handled without undue delay; and
- a time limit is established for the storage of personal data.

Member States shall take the necessary measures to ensure that personal data processed under this Directive are used only for the purposes of:

- (a) identify suspected offenders in view of the obligation to pay road fees within the scope of Article 4a(12);
- (b) ensuring the compliance of the Toll Charger as regards its obligations towards tax authorities within the scope of Article 4a(13); and
- (c) identification of the vehicle and the owner or holder of the vehicle for which a failure to pay a road fee was established within the scope of Articles 5 and 6.

Member States shall also take the necessary measures to ensure that the data subjects have the same rights of information, access, rectification, erasure and restriction of processing, to lodge a complaint with a data protection supervisory authority, compensation and an effective judicial remedy as provided for in Regulation (EU) 2016/679 or, where applicable, Directive (EU) 2016/680.

- 2a. This Article shall not affect the possibility of Member States to restrict the scope of the obligations and rights provided for in certain provisions of Regulation (EU) 2016/679 in accordance with Article 23 of that Regulation for the purposes listed in the first paragraph of that Article.
- 3. Any person concerned shall have the right to obtain, without undue delay, information on which personal data recorded in the Member State of registration were transmitted to the Member State in which there was a failure to pay a road fee, including the date of the request and the competent authority of the Member State in whose territory there was a failure to pay a road fee.

## CHAPTER IX

### FINAL PROVISIONS

#### Article 9

#### **Report**

1. By [4 years after the entry into force of this Directive], the Commission shall present a report to the European Parliament and to the Council on the implementation and effects of this Directive, in particular as regards the advancement and deployment of the EETS and the effectiveness and efficiency of the mechanism for the exchange of data in the framework of the investigation of events of failure to pay road fees.

The report shall analyse in particular the following:

- (a) the effect of the provisions of Article 4a(1) and (2) on the deployment of EETS, with a particular focus on the availability of the service in small or peripheral EETS domains;
  - (b) the effectiveness of Articles 5, 6 and 6b on the reduction in the number of failures to pay road fees in the Union.
  - (c) the progress made on interoperability aspects between electronic road toll systems using satellite positioning and 5.8 GHz microwave technology.
2. The report shall be accompanied, if appropriate, by a proposal to the European Parliament and the Council for further revision of this Directive, regarding notably the following elements:
  - (a) additional measures to ensure that the EETS is available in all EETS domains, including small and peripheral ones;
  - (b) measures to further facilitate the cross-border enforcement of the payment of road fees in the Union, including mutual assistance arrangements; and
  - (c) the extension of the provisions facilitating cross-border enforcement to low emission zones, restricted access zones or other urban vehicle access regulation schemes.



## Article 10

### **Delegated acts**

The Commission is empowered to adopt delegated acts, in accordance with Article 11, updating Annex II to take into account any relevant amendments to be made to Council Decisions 2008/615/JHA<sup>12</sup> and 2008/616/JHA or where this is required by any other relevant Union acts.

## Article 11

### **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 10 shall be conferred on the Commission for a period of five years from [the entry into force 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 10 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 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.

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<sup>12</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).

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>13</sup>.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 10 shall enter into force only if no objection has been expressed either by the European Parliament or by 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 11a

##### **Committee procedure**

1. The Commission shall be assisted by the Electronic Toll Committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>14</sup>.
2. When reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

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<sup>13</sup> OJ L 123, 12.5.2016, p. 1

<sup>14</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, OJ L 55, 28.2.2011, p. 13

## Article 12

### **Transposition**

1. Member States shall adopt and publish, by [30 months after the entry into force of this Directive], the laws, regulations and administrative provisions necessary to comply with Articles 1 to 8 and Annexes II and III. They shall immediately communicate the text of those measures to the Commission.

They shall apply those measures from [30 months after the entry into force of this Directive].

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive.

Member States shall determine how such reference is to be made and how that statement is to be formulated.

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

### **Repeal**

Directive 2004/52/EC is repealed with effect from [the day after the date in the first subparagraph of Article 12(1)], without prejudice to the obligations of the Member States relating to the time limit for the transposition into national law of the Directive set out in Annex V, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex VI.

Article 14

**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 15

**Addressees**

This Directive is addressed to the Member States.

For the European Parliament

For the Council

The President

The President

## ANNEX II

### DATA ELEMENTS NECESSARY TO CONDUCT THE AUTOMATED SEARCH REFERRED TO IN ARTICLE 5(1)

Item	M/O <sup>15</sup>	Remarks
Data relating to the vehicle	M	
Member State of registration	M	
Registration number	M	(A <sup>16</sup> )
Data relating to the failure to pay a road fee	M	
Member State in whose territory there was a failure to pay a road fee	M	
Reference date of the occurrence	M	
Reference time of the occurrence	M	

<sup>15</sup> M = mandatory when available in national register, O = optional.

<sup>16</sup> Harmonised code, see Council Directive 1999/37/EC of 29 April 1999 on the registration documents for vehicles (OJ L 138, 1.6.1999, p. 57).

**DATA ELEMENTS PROVIDED AS A RESULT OF THE AUTOMATED SEARCH CONDUCTED PURSUANT TO ARTICLE 5(1)**

**Part I. Data relating to vehicles**

Item	M/O <sup>17</sup>	Remarks
Registration number	M	
Chassis number/VIN	M	
Member State of registration	M	
Make	M	(D.1 <sup>18</sup> ) e.g. Ford, Opel, Renault
Commercial type of the vehicle	M	(D.3) e.g. Focus, Astra, Megane
EU Category Code	M	(J) e.g. mopeds, motorbikes, cars
EURO emissions class	M	e.g. Euro 4, EURO 6

**Part II. Data relating to owners or holders of the vehicles**

Item	M/O <sup>19</sup>	Remarks
Data relating to holders of the vehicle		(C.1 <sup>20</sup> ) The data refer to the holder of the specific registration certificate.
Registration holders' (company) name	M	(C.1.1) Separate fields shall be used for surname, infixes, titles, etc., and the name in printable format shall be communicated.

<sup>17</sup> M = mandatory when available in national register, O = optional.

<sup>18</sup> Harmonised code, see Directive 1999/37/EC.

<sup>19</sup> M = mandatory when available in national register, O = optional.

<sup>20</sup> Harmonised code, see Directive 1999/37/EC.

First name	M	(C.1.2) Separate fields for first name(s) and initials shall be used, and the name in printable format shall be communicated.
Address	M	(C.1.3) Separate fields shall be used for street, house number and annex, post code, place of residence, country of residence, etc., and the address in printable format shall be communicated.
Gender	O	Male, female
Date of birth	M	
Legal entity	M	Individual, association, company, firm, etc.
Place of Birth	O	
ID Number	O	An identifier that uniquely identifies the person or the company.
Data relating to owners of the vehicle		(C.2) The data refer to the owner of the vehicle.
Owners' (company) name	M	(C.2.1)
First name	M	(C.2.2)
Address	M	(C.2.3)
Gender	O	Male, female
Date of birth	M	
Legal entity	M	Individual, association, company, firm, etc.

Place of Birth	O	
ID Number	O	An identifier that uniquely identifies the person or the company.
		In case of scrap vehicles, stolen vehicles or number plates, or outdated vehicle registration no owner/holder information shall be provided. Instead, the message 'Information not disclosed' shall be returned.



**ANNEX III**

**TEMPLATE FOR THE INFORMATION LETTER**

referred to in Article 6

[Cover page]

.....  
.....

[Name, address and telephone number of sender]

.....  
.....

[Name and address of addressee]

**INFORMATION LETTER**

regarding the failure to pay a road fee occurred in

[name of the Member State in whose  
territory there was a failure to pay a road  
fee]

On .....a failure to pay a road fee with the vehicle with registration

[date]

number ..... make ..... model.....

was detected by .....

[name of the responsible body]

[Option 1](<sup>1</sup>)

You are registered as the holder of the registration certificate of the abovementioned vehicle.

[Option 2] (<sup>1</sup>)

The holder of the registration certificate of the abovementioned vehicle indicated that you were driving that vehicle when the failure to pay a road fee was committed.

The relevant details of the failure to pay a road fee are described on page 3 below.

The amount of the financial penalty due for the failure to pay a road fee is ..... EUR/national currency. (<sup>1</sup>)

The amount of the road fee due to pay is ..... EUR/national currency. (<sup>1</sup>)

Deadline for the payment is .....

You are advised to complete the attached reply form (page 4) and send it to the address shown, if you do not pay this financial penalty / road fee(<sup>1</sup>).

This letter shall be processed in accordance with the national law of .....

[name of the Member State in whose territory there was a failure to pay a road fee].

Relevant details concerning the failure to pay a road fee

(a) Data concerning the vehicle which was used in the failure to pay a road fee:

Registration number: .....

Member State of registration: .....

Make and model: .....

(b) Data concerning the failure to pay a road fee:

Place, date and time where the failure to pay a road fee occurred:

.....  
.....  
.....  
.....

Nature and legal classification of the failure to pay a road fee:

.....  
.....  
.....  
.....

Detailed description of the failure to pay a road fee:

.....  
.....

Reference to the relevant legal provision(s):

.....  
.....

Description of or reference to the evidence regarding the failure to pay a road fee:

.....  
.....

(c) Data concerning the device that was used for detecting the failure to pay a road fee <sup>(2)</sup>:

Specification of the device:

.....  
.....

Identification number of the device:

.....  
.....

Expiry date for the last gauging:

.....  
.....

- (1) Delete if not applicable.
- (2) Not applicable if no device has been used.

Reply form

(please complete using block capitals)

A. Identity of the driver:

— Full name:

.....  
.....

— Place and date of birth:

.....

— Number of driving licence: ..... delivered (date): ..... and ..... at  
(place):.....

— Address:.....  
.....  
.....  
.....

B. List of questions:

1. Is the vehicle, make , registration number , registered in

your name? ..... yes/no (1)

If not, the holder of the registration certificate is: .....

(name, first name, address)

2. Do you acknowledge that you failed to pay a road fee? yes/no (1)

3. If you do not acknowledge this, please explain why:

.....  
.....

Please send the completed form within 60 days from the date of this information letter to the following authority or  
entity: .....

at the following address .....



[Where Regulation (EU) 2016/679 is applicable:

In accordance with Regulation (EU) 2016/679, you have the right to request access to, and rectification or erasure of, personal data or restriction of processing of your personal data or to object to the processing, as well as the right to data portability. You also have the right to lodge a complaint with [name and address of the relevant supervisory authority].

[Where Directive 2016/680 is applicable:

In accordance with [name of the national law applying Directive (EU) 2016/680], you have the right to request from the controller access to and rectification or erasure of personal data and restriction of processing of your personal data. You also have the right to lodge a complaint with [name and address of the relevant supervisory authority].]

## ANNEX V

### Part A

Repealed Directive with the amendment thereto  
(referred to in Article 13)

Directive 2004/52/EC of the European Parliament and of the Council	OJ L 166, 30.4.2004, p. 124
Regulation (EC) No 219/2009 of the European Parliament and of the Council	OJ L 87, 31.3.2009, p. 109

### Part B

Time-limit for transposition into national law  
(referred to in Article 13)

Directive	Time-limit for transposition
Directive 2004/52/EC	20 November 2005



## ANNEX VI

### Correlation Table - TO BE REVISED BY THE LAWYER-LINGUISTS

Directive 2004/52/EC	This Directive
Article 1(1)	Article 1(1), first subparagraph
—	Article 1(1), second subparagraph
Article 1(2), introductory wording	Article 1(2), introductory wording
Article 1(2)(a)	Article 1(2)(a)
Article 1(2)(b)	—
Article 1(2)(c)	Article 1(2)(b)
—	Article 1(2)(c)
Article 1(3)	Article 1(3)
—	Article 2
Article 2(1)	Article 3(1), first subparagraph
—	Article 3(1), second subparagraph
Article 2(2), first sentence	—
—	Article 3(2)
Article 2(2), second and third sentence	Article 3(3)
Article 2(2), fourth sentence	—
—	Article 3(4)
—	Article 3(5)
Article 2(3)	—
Article 2(4)	—
Article 2(5)	—
Article 2(6)	—

Article 2(7)	Article 3(6)
Article 3(1)	—
Article 3(2), first sentence	—
Article 3(2), second sentence	—
Article 3(2), third sentence	Article 4(2)
Article 3(3)	Article 4(3)
Article 3(4)	—
Article 4(1)	Article 4(1)
Article 4(2)	—
Article 4(3)	Article 4(4)
Article 4(4)	—
Article 4(5)	—
Article 4(6)	—
Article 4(7)	Article 4(5)
Article 4(8)	Article 4(6)
Article 5	—
—	Article 5
—	Article 6
—	Article 7
—	Article 8
—	Article 9
—	Article 10
—	Article 11

Article 6	Article 12(1)
—	Article 12(2)
	Article 13
Article 7	Article 14
Article 8	Article 15
Annex	
—	Annex II
—	Annex III
—	
—	Annex V
—	Annex VI

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