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From:	General Secretariat of the Council
To:	Working Party on Land Transport
N° Cion doc.:	ST 6792/23 + COR 1+ ADD 1 + ADD1 COR1
Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2015/413 facilitating cross-border exchange of information on road-safety-related traffic offences - Presidency compromise proposals for comments

Delegations can find attached Presidency compromise proposals as presented in today's land transport working party, related to the proposal on facilitating cross-border exchange of information on road-safety-related traffic offences.

Delegations are reminded to send in their comments on these proposals by Thursday 25 January, 17h.

1. Deadline traffic offence notice (line 191)

“2. The competent authority of the Member State of the offence shall ensure that the traffic offence notice and any follow-up documents are sent as defined in the law of the Member State of the offence. Traffic offence notices addressed to the concerned person shall be issued no later than 6 months after the traffic offence, in case where automated searches referred to in Article 4(1) were successful and where the competent authority has identified the concerned person to the necessary degree of certainty required by its national legislation.

In cases where automated searches referred in Article 4(1) were not successful or where the competent authority cannot identify the concerned person to the necessary degree of certainty required by its national legislation, the traffic offence notice shall be issued no later than 3 months after the Member State of the offence is notified, following the request for mutual assistance as defined in Article 4a, by the competent authority of the Member State of registration or residence of the identity and address of the concerned person.”

2. Deadline mutual assistance (lines 132 and 136)

L 132: “4. Unless it decides to invoke one of the grounds for refusal listed in paragraph 7 or it is not possible to gather the requested information, the competent authorities of the Member State of registration or residence shall gather the requested information referred to in paragraph 3, without undue delay.

Without undue delay and no later than 1 month from the day that the competent authority of the Member State of registration or residence has the necessary information to respond to the request, it shall answer the request via its national contact point.”

Proposal for a DIRECTIVE amending Directive (EU) 2015/413 facilitating cross-border exchange of information on road-safety-related traffic offences 2023/0052(COD)

Draft Presidency compromise on FINANCIAL CLAIMS OF LEGAL ENTITIES

The Presidency considers that with the proposed changes and reinstating a redrafted Article 5b, the concerned person will enjoy legal clarity, as it will be clear that the empowered entity cannot charge additional costs. This is considered better than leaving this issue unresolved.

	Commission Proposal	EP Mandate – PE 749.236	Council GA - ST 16306/23	Draft Agreement
Recital 24				
34	(24) To ensure transparent and proportional application of financial penalties to road-safety-related traffic offences, which are subject to public law, presumed liable persons should not be forced to pay legal and administrative expenses related to the administration of the penalties where such administration is outsourced to private or public entities. Nevertheless, the authorities of Member States should be allowed to charge proportionate administrative fees.	(24) To ensure transparent and proportional application of financial penalties to road-safety-related traffic offences, which are subject to public law, presumed liable persons should not be forced to pay legal and administrative expenses related to the administration of the penalties where such administration is outsourced to private or public entities. Nevertheless, the authorities of Member States should be allowed to charge proportionate administrative fees.	<i>deleted</i>	(24) To ensure transparent and proportional application of financial penalties to road-safety-related traffic offences, which are subject to public law, presumed liable <u>concerned</u> persons should not be <u>subject to any additional charges</u> when the financial claims related to these traffic offences are forced to pay legal and administrative expenses related to the administration of the penalties where such administration is outsourced to private or public entities. Nevertheless, the <u>competent</u> authorities ies of <u>the</u> Member States of the offence should be allowed to charge proportionate administrative fees. Article 5b (L214-216) would only deal with private entities. Public entities are considered to be under public control and therefore do not

	Commission Proposal	EP Mandate – PE 749.236	Council GA - ST 16306/23	Draft Agreement
				need to be limited as the private entities need to be.
Article 1, first paragraph, point (2)(a), amending provision, numbered paragraph (l)				
78a			(l) ‘national contact point’ means the authorities designated for the purposes of the incoming and outgoing automated exchange of vehicle registration data in accordance with Article 4, the incoming and outgoing requests for mutual assistance to identify the concerned person in accordance with Article 4a, the incoming and outgoing requests for mutual assistance to send the traffic offence notice or the follow-up documents to the concerned person in accordance with Article 5a1 and the incoming and outgoing requests and responses for mutual assistance in enforcement of final administrative decisions on road traffic fines imposed for road-safety-related traffic offences in accordance with Article 8b.	The Presidency suggests to make it crystal clear that a legal entity as defined in Article 5b, cannot be a national contact point. (l) ‘national contact point’ means the authorities designated for the purposes of the incoming and outgoing automated exchange of vehicle registration data in accordance with Article 4, the incoming and outgoing requests for mutual assistance to identify the concerned person in accordance with Article 4a, the incoming and outgoing requests for mutual assistance to send the traffic offence notice or the follow-up documents to the concerned person in accordance with Article 5a1 and the incoming and outgoing requests and responses for mutual assistance in enforcement of final administrative decisions on road traffic fines imposed for road-safety-related traffic offences in accordance with Article 8b. <u><i>A privately owned or operated legal entity, which was empowered by a Member State or a subdivision thereof to collect financial claims stemming from pecuniary sanctions</i></u>

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				<u>issued for the commission of a road-safety-related traffic offence listed in Article 2(1) may not be designated as a national contact point.;</u>
Article 1, first paragraph, point (2)(c), amending provision, numbered paragraph (za)				
93g		<u>(zb) ‘competent authority’ is an authority designated for the purposes of this Directive;</u>	(zd) ‘competent authority’ means the authority responsible for registration of vehicles or drivers, for starting the follow-up proceedings or investigating the road-safety-related traffic offences listed in Article 2(1) or enforcing relevant sanctions, in accordance with the national legislation of Member States;	The Presidency suggests to make it crystal clear that a legal entity as defined in Article 5b, cannot be a competent authority. (zd) ‘competent authority’ means the authority responsible for registration of vehicles or drivers, for starting the follow-up proceedings or investigating the road-safety-related traffic offences listed in Article 2(1) or enforcing relevant sanctions, in accordance with the national legislation of Member States. <u>A privately owned or operated legal entity, which was empowered by a Member State or a subdivision thereof to collect financial claims stemming from pecuniary sanctions issued for the commission of a road-safety-related traffic offence listed in Article 2(1) may not be designated as a competent authority.;</u>

	Commission Proposal	EP Mandate – PE 749.236	Council GA - ST 16306/23	Draft Agreement
Article 1, first paragraph, point (3), amending provision, Article				
97	Article 3a	Article 3a Article 3a <u>National contact points</u>	Article 3a Article 3a National contact points	Article 3a National contact points
Article 1, first paragraph, point (3), amending provision, numbered paragraph (1)				
99	1. For the purposes of the exchange of information under this Directive, each Member State shall designate a national contact point. The powers of the national contact points shall be governed by the applicable law of the Member State concerned.	1. For the purposes of the exchange of information <u>and the provision of mutual assistance</u> under this Directive, each Member State shall designate a national contact point. The powers of the national contact points shall be governed by the applicable law of the Member State concerned.	1. For the purposes of the exchange of information under this Directive, Each Member State shall designate a national contact point. The powers of the one or more national contact points shall be governed by the applicable law of the Member State concerned for:	1. Each Member State shall designate one or more national contact points for:
Article 1, first paragraph, point (3), amending provision, numbered paragraph (1), point (a)				
99a			(a) automated exchange of vehicle registration data in accordance with Article 4;	(a) automated exchange of vehicle registration data in accordance with Article 4;
Article 1, first paragraph, point (3), amending provision, numbered paragraph (1), point (b)				
99b			(b) the incoming and outgoing requests and responses for mutual assistance to identify the concerned person in accordance with Article 4a;	(b) the incoming and outgoing requests and responses for mutual assistance to identify the concerned person in accordance with Article 4a;
Article 1, first paragraph, point (3), amending provision, numbered paragraph (1), point (c)				

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G	99c		(c) the incoming and outgoing requests and responses for mutual assistance to service the traffic offence notice or the follow-up documents to the concerned person in accordance with Article 5a1 and	(c) the incoming and outgoing requests and responses for mutual assistance to service the traffic offence notice or the follow-up documents to the concerned person in accordance with Article 5a1 and
	Article 1, first paragraph, point (3), amending provision, numbered paragraph (1), point (d)			
G	99d		(d) the incoming and outgoing requests and responses for mutual assistance in enforcement of final administrative decisions on road traffic fines imposed for road-safety-related traffic offences in accordance with Article 8b.	(d) the incoming and outgoing requests and responses for mutual assistance in enforcement of final administrative decisions on road traffic fines imposed for road-safety-related traffic offences in accordance with Article 8b.
	Article 1, first paragraph, point (3), amending provision, numbered paragraph (1), point (e)			
G	99e		The powers of the national contact points shall be governed by the applicable law of the Member State concerned.	(e) The powers of the national contact points shall be governed by the applicable law of the Member State concerned.
	Article 1, first paragraph, point (3), amending provision, numbered paragraph (2)			
R	100	2. Member States shall ensure that their respective national contact points cooperate with the authorities involved in the investigation of the road-safety-related traffic offences	2. Member States shall ensure that their respective national contact points cooperate with the authorities involved in the investigation of the road-safety-related traffic offences	Linked to the time limits The Presidency suggests to make it crystal clear that a legal entity as

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	listed in Article 2(1), in particular in order to ensure that all necessary information is shared in due time, and that the time limits laid down in Article 4a(5) and Article 5a(2) are complied with.;	listed in Article 2(1), in particular in order to ensure that all necessary information is shared in due time, and that the time limits laid down in Article 4a(5) and Article 5a(2) are complied with.;	listed in Article 2(1), in particular each other in order to ensure that all necessary information is shared in due time, and that the time limits laid down in Article 4a(5) and Article 5a(2) are complied with.;	defined in Article 5b, cannot be granted access to VRD exchange. This can be done by adding a 3 rd paragraph to Article 3a. (We would already make it clear that it cannot be a NCP in L78a.) <u>3. The Member State of the offence shall ensure that a privately owned or operated legal entity, which was empowered by it or a subdivision thereof to collect financial claims stemming from pecuniary sanctions issued for the commission of a road-safety-related traffic offence listed in Article 2(1) does not have direct access to the vehicle registration data of another Member State, in particular by way of automated searches as referred to in Article 4. Without prejudice to Article 5b, the competent authority of the Member State of the offence may only empower such legal entity, after establishing the personal information of the concerned person for a specific road-safety-related traffic offence listed in Article 2(1).</u>
Article 1, first paragraph, point (4), amending provision, numbered paragraph (8), fourth subparagraph				
122b			8b. The Member State of the offence shall ensure that only its competent authorities have access to the vehicle registration data	<u>Article 4</u> 8b. The Member State of the offence shall ensure that only its

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			exchange, via its national contact points.	competent authorities have access to the vehicle registration data exchange, via its national contact points. In the definition of a ‘Competent Authority’ (L93g) and in Article 3a on ‘National Contact Points’ (L99-100) it has been made clear that a legal entity cannot be either of the above.
Article 1, first paragraph, point (6), amending provision, numbered paragraph (1), second subparagraph				
171	Where the Member State of the offence decides to initiate such proceedings, that Member State shall promptly inform the presumed liable person about the road-safety-related traffic offence and of the decision to initiate follow-up proceedings by an information letter.	Where the Member State of the offence decides to initiate such proceedings, that Member State shall promptly inform the presumed liable person about the road-safety-related traffic offence and of the decision to initiate follow-up proceedings by an information letter, <u>whilst respecting the time limit set out in Article 5a, paragraph 2.</u>	Where the competent authority of the Member State of the offence decides to initiate such proceedings, that Member State competent authority shall promptly inform the presumed liable concerned person about the road-safety-related traffic offence and, where appropriate , of the decision to initiate follow-up proceedings by an information letter a traffic offence notice.	<u>Article 5</u> Nothing needs to be changed, if delegations agree that a legal entity as defined in Article 5b can never be empowered to send the traffic offence notice. Sending the notice should be the responsibility of the competent authority only. Only once the offence has been clearly defined and the liable person identified and in those cases where this liable person refuses to pay the fine, could a competent authority empower another legal entity to claim the amount of the fine. time limits still need to be considered
Article 1, first paragraph, point (6), amending provision, numbered paragraph (2), point (j)				

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183	(j) where applicable, a clear indication that the private or public entity which sends it is a proxy empowered by the Member State of the offence in accordance with Article 5b and a clean delineation between the amounts of monies claimed, based on their legal ground.	(j) where applicable, a clear indication that the private or public entity which sends it is a proxy empowered by the Member State of the offence in accordance with Article 5b and a clean delineation between the amounts of monies claimed, based on their legal ground.;	deleted Council deleted Article 5b	Article 5 As explained in L171, this line should be deleted as the legal entity should not be empowered to send the traffic offence notice. (j) where applicable, a clear indication that the competent authorities of the Member State of the offence will empower a privately or publicly owned legal entity for the purpose of collecting any financial claims stemming from pecuniary sanctions issued for the commission of a road-safety-related traffic offence listed in Article 2(1) .
Article 1, first paragraph, point (7), amending provision, Article				
214	Article 5b	Article 5b Article 5b <u>Financial claims of legal entities empowered by Member States</u>	deleted	The Presidency suggests to reinstate Article 5b, but to redraft the text.
Article 1, first paragraph, point (7), amending provision, Article, second paragraph				
216	Member States shall ensure that where they empower a private or public entity with distinct legal personality to administer the follow-up proceedings or part thereof initiated under Article 5(1), including the enforcement of financial penalties, the presumed liable persons are not subject to that	<u>1.</u> Member States shall ensure that where they empower a private or public entity with distinct legal personality to administer the follow-up proceedings or part thereof initiated under Article 5(1), including the enforcement of financial penalties, the presumed liable persons are not subject to that	deleted	Public entities are considered to be under public control and therefore do not need to be limited as the private entities need to be. The private entities should only be empowered with financial claims, but not with any initial procedures like sending the traffic offence notice or related follow-up

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	entity's charges related to legal and administrative expenses incurred by administering those proceedings. This is without prejudice for the right of the authorities of Member States to charge proportionate administrative fees.	entity's charges related to legal and administrative expenses incurred by administering those proceedings. This is without prejudice for the right of the authorities of Member States to charge proportionate administrative fees.	PUBLIC	procedures. Member States shall ensure that where they empower a privately or public <u>owned or operated legal</u> entity with distinct legal personality to administer the follow-up proceedings or part thereof initiated under Article 5(1), including the enforcement of <u>to collect</u> financial penalties <u>claims stemming from pecuniary sanctions issued for the commission of a road-safety-related traffic offence listed in Article 2(1),</u> the presumed liable <u>concerned</u> persons are not subject to that entity's charges related to legal and administrative expenses incurred by administering those proceedings. This is without prejudice for the right of the authorities of Member States to charge proportionate administrative fees.
Article 1, first paragraph, point (7), amending provision, Article(2)				
216a		<u>1a. Member States shall ensure that such a private entity enforcing financial penalties acts in accordance with data protection requirements, pursuant to Regulation (EU) 2016/679 and Directive (EU) 2016/680.</u>		The Presidency intends to explain to the EP that this line is not required, as GDPR applies to the whole Directive.