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Brussels, 22 September 2023

WK 10507/2023 ADD 4

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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Land Transport
N° prev. doc.:	ST 7444/2/23 REV 2
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 - Revised Presidency compromise - Comments from Member States

Delegations will find, attached, further comments from **Austria** on the above-mentioned document.

Proposal CBE Directive
(3rd consensus text 29 June 23 - 7444/2/23 REV 2):

Comments from AUSTRIA

A. General remarks :

1. AUSTRIA maintains its general scrutiny reservation for all articles.
2. The following comments and legislative proposals are provided in addition to the written comments of Austria of September 5th (WK 10507/2023 ADD 1).
3. Austria wants to address some important points that should be taken into account:

a) *Article 3a (National contact points):*

For the sake of creating a clear understanding of the Directive, AT suggests to

- describe the role, tasks and obligations of the NCPs and the competent authorities.
- introduce a list of the measures provided by the Directive.
- and regulate each measure in a separate Article in order to clarify the requirements and also define the requests and responses for each measure specifically

It seems necessary to describe the legal duties of the NCPs in resolving problems and issues related to the data exchange. In particular to investigate possible data breaches or irregularities which should be regulated more clearly and in more detail.

b) *Article 4-a (VRD registers):*

AT recommends that VRD registers should be kept up-to-date and synchronized with other relevant national databases, such as civil registers and commercial registers.

c) *Article 4a (Mutual assistance):*

AT rejects the thresholds for mutual assistance (driver's licence disqualification and financial threshold) as this would further complicate cross-border enforcement and limit the added value of the new Directive.

Instead of introducing thresholds AT suggests again to introduce the legal provision that MLA may only be required by the MS of offence upon condition that the MS of offence has tried to deliver the Information letter by post and/or tried to investigate on its own the liable person using RESPER.

AT suggests again to introduce a subsidiary possibility to obtain data on the holder or owner of the vehicle by means of MLA in cases where the VRD exchange (Article 4) led to a questionable result (across the EU more than 5 % of all CBE requests).

d) *Article 4c (Use of other databases / RESPER) :*

AT suggests

- to redraft this Article in order to reflect the legal possibilities to use RESPER for cross-border exchange, as set out by existing EU law (Article 15 of the Driving Licence Directive resp. Article 19 of the new DLD) and therefore
- to shift this Article between Article 4 (VRD exchange) and Article 4a (mutual assistance).

e) Article 5 (Information letter):

Following the principle of subsidiarity AT rejects strict numeric time limits, as these should be defined in the national law in each MS.

f) Article 5a (Service of documents):

Para 2 : Following the principle of subsidiarity AT rejects any numeric time limits, as these should be defined in the national law in each MS.

Para 7 : Since there is no need for translation of structured MLA requests and responses this para should be deleted.

g) Article 5a1 (Translation of documents)

Para 1 :

The language regime of the current draft is way too far reaching and can only be provided at a later stage in the proceedings – as set out by existing EU law.

AT proposes to avoid the concept of “essential documents” and suggests instead to refer to essential text passages. (It is up to each MS, to decide what is essential - this does not have to be defined by the EU legislator.)

Para 2: For AT only communication in the official language(s) of the MS of the offence is acceptable.

Para 4 : To AT it is not relay clear, what the meaning of this para is about, also in relation to the already existing appeal procedures in the MS.

h) New Article 5 aa (Mutual recognition of financial penalties issued for road-safety-related traffic offences)

AT suggests again to introduce the mutual recognition of financial penalties, as recommended from the side of CBE experts for years – and also the analytical papers of the EC.

In order to meet the very ambitious road safety targets in the EU for the next decades, it will be decisive to move beyond voluntary payment of CBE tickets (status quo) and strive to reach the next level resp. final step which is cross-border execution of final and enforceable CBE decisions.

This logic has been assessed and elaborated by different EC studies throughout the last decade.

It will therefore be essential to introduce into the CBE Directive a CBE tailored possibility for digitized cross-border execution of final and enforceable CBE decisions.

4. General comments on the text and legal drafting:

- a. The draft text has to be thoroughly revised:
 - There is still much superfluous text.
 - The drafting of several articles is not consistent with each other.
- b. The order of the Articles and paragraphs should be in a logical and chronological order and therefore should be reconsidered.

- c. It deems necessary to also define the responses for any introduced request.
Not only to clarify the requirements, but also in order to allow a definition in the Implementing Acts.
- d. It should be considered to:
 - move certain paragraphs into other Articles.
 - address each measure in a separate Article.
- e. It should be assessed:
 - In which paragraphs the competent authority should be mentioned instead of the Member State or National Contact Point.
 - If the split between holders, owners and end-users of vehicles and their respective “previous” form in the Annex is really necessary.

5. Important guiding principles that have to be stressed:

- a. The principle of subsidiarity should be respected, especially when it comes to introducing new procedures and deadlines that interfere with national law.
- b. For MS with already well established CBE systems there should not be the risk of unproportionate burdens and changes, risking to endanger the well working CBE workflows.
- c. Legal drafting motivated by fundamental rights protection should not result in affecting in a disproportionate negative way the established and well working CBE systems in the MS (no obstruction)

B. AUSTRIA suggests amendments to the following Articles of the text proposal 7444/2/23 REV 2:

Article 3a

National contact points

1. For the purposes of the exchange of information and mutual assistance under this Directive, each Member State shall designate ~~one or more~~ national contact points for each measure defined in para 1a. The powers of the national contact points shall be governed by the applicable law of the Member State concerned.

1a. This Directive defines the following measures:

- a) VRD data-exchange as set out in Article 4
- b) Mutual assistance as set out in Article 4a para 3 lit b in order to provide information on the identity and address of the liable person
- c) Mutual assistance as set out in Article 4a para 3 lit c in order to establish the current address of a relevant person
- d) Mutual assistance as set out in Article 4a para 3 lit d in order to establish the current address of the owner, holder or end user of the vehicle in cases where the data exchange as set out in Article 4 led to a questionable result.
- e) Use of other databases as set out in Article 4c in order to verify the identity of the liable person based on the photo of the driving license holder (RESPER)
- f) Mutual assistance as set out in Article 5a para 3 in order to ensure service of the information letter and follow-up documents
- g) Mutual recognition of financial penalties issued for road-safety-related traffic offences as set out in Article 5c

1b. One national contact point may be in charge of one or more measures.

1c. Member States may assign inside each measure one NCP for incoming requests/responses and one NCP for outgoing requests/responses.

1d. The competent national authorities of the Member States shall communicate via their national contact points wherever possible via the technical measures foreseen in this Directive.

1e. The national contact point shall forward any incoming request and response to the competent national authority.

Commented [1]: AUSTRIA suggests to introduce "Subsidiary Holder Investigation"

Commented [2]: AUSTRIA suggests to introduce the mutual recognition of financial penalties, in addition to FWD 2005/214/JHA

Commented [3]: In some MS this is already a general practice for years.

1f. The competent national authorities shall send any outgoing request and response via their national contact point.

2. Member States shall ensure that their respective ~~national contact points cooperate with the~~ competent authorities involved in the measures, as set out in para 1a, cooperate with each other ~~investigation of the road safety related traffic offences listed in Article 2(1),~~ in particular in order to ensure that all necessary information is shared in due time.

3. Member States shall ensure that their respective national contact points responsible for outgoing requests/responses cooperate with the national contact points of other Member States for incoming requests/responses, in particular to resolve any issues related to the data exchange and to investigate possible data breaches or irregularities.

Commented [4]: The recent cases of data breaches have shown that the officially assigned NCPs (which are mostly the NCPs for incoming requests/responses) do not see it sufficiently as their obligation to cooperate with the NCPs of other MS when it comes to problems with requests coming from the same MS

4. Member States shall ensure that their respective competent authorities cooperate with the national contact point, in particular to resolve any issues related to the data exchange and to investigate possible data breaches or irregularities.'

(4) Article 4 is replaced by the following:

'Article 4

Procedures for the exchange of vehicle registration information between Member States

1. For the investigation of the road-safety-related-traffic offences listed in Article 2(1), Member States shall grant the competent authorities of other Member States' ~~national contact points~~ access via their national contact point to the following national vehicle registration data, with the power to conduct automated searches thereon:

- (a) data relating to vehicles;
- (b) data relating to holders and, where available, owners and end users of the vehicles.

~~The data elements referred to in the first subparagraph, points (a) and (b), which are necessary to conduct a search shall be those set out in the Annex.~~

When conducting a search ~~in the form of an outgoing request, the national contact point the~~ competent authority of the Member State of the offence shall use all relevant data about the offence and a full registration number or a full vehicle identification number.

Commented [5]: The VIN is necessary to ensure more data protection in cases where a registration number may not be unique inside a MS.

The result of such a search shall contain the data elements referred to in the first paragraph at the time of the offence.

Commented [REDACTED] Replaces para 10

In cases where in a first step it is necessary to establish if an offence was committed, the result of such a search shall contain only data relating to the vehicles.

Commented [REDACTED] (7): To protect the privacy rights of holders during the detection of offences based on technical vehicle data.

The data elements for the search and the different search results shall be those set out in the Annex.

~~In order to establish if a vehicle is overloaded or is not respecting the rules on urban vehicle access restrictions regulated zones the competent authority national contact point shall, where appropriate, first request access to the technical vehicle data contained in Section 2, Part I of the Annex. When the offence is established, the competent authority shall request access to the data contained in Section 2, Parts II, III, IV and V of the Annex related to the holder and, where available, owner and end user of the vehicle.~~

4. Member States shall return a specific message in the following cases, informing that at the time of the offence:

Commented [REDACTED] (8): This Para should be harmonized with the current EUCARIS CBE specifications.

- (a) the vehicle was temporarily or permanently de-registered from the national vehicle registry;
- (b) the vehicle's full registration number is not provided, outdated or incorrect in the search conducted in the form of an outgoing request under paragraph 1;
- (d) the vehicle is recorded as stolen in the national vehicle registry;
- (e) the vehicle registration plate is recorded as stolen in the national vehicle registry.

9. Member States shall return a message that the information cannot be disclosed in the case that the requested information would reveal the identity of a person protected in accordance with the national law of the Member State of registration.

Commented [REDACTED] (9): This Para should be harmonized with the current EUCARIS CBE specifications.

~~10. The requested Member State shall ensure that has no obligation to share no other data elements are shared than those related to the committed offence.~~

Commented [REDACTED] Moved to para 1:
"The result of such a search shall contain the data elements referred to in the first paragraph at the time of the offence."

- (5) the following Articles 4-a, 4-a1, 4a, 4b and 4c are inserted:

'Article 4-a

National Vehicle Registers

1. Member States shall ensure that the data elements listed in Section 2, ~~Parts I, II and IV~~ of the Annex, when available in their national vehicle registers, are up-to-date, when available with other relevant national registers.

Commented [11]: GDPR requires that data is up-to-date and therefore data should be synchronized with other databases where possible.
In Austria the data is synchronized with the civil database and the commercial register.

2. Member States shall ~~for the purposes of this Directive~~ retain the data elements referred to in Section 2, ~~Part IV and V~~ of the Annex, when available, in the national vehicle registry for ~~at least at least~~ 12 months after any modification of the owner, ~~ship or use~~ holder or end-user of the vehicle in question.

Commented [12]: This time limit should be in line with the national time limits of the MS (of offence) relevant for the prosecution.
PRES could ask all MS and provide the results in a table to have a base for decision making.

~~When a Member State initiates a search in accordance with Article 4, it has no obligation to share other data elements than those related to the time of the committed offence.~~

Article 4-a1

Technical specifications for the exchange of vehicle registration data

1. For automated searching of vehicle registration data in accordance with Article 4, Member States shall use the specifically designed software application of the European Vehicle and Driving Licence Information System (Eucaris), and amended versions of this software.

Member States shall ensure that the automated searching of vehicle registration data is secure, cost-efficient, expeditious and reliable, and carried out by interoperable means within a decentralized structure.

The software shall provide for both online real-time exchange mode and batch exchange mode, the latter allowing for the exchange of multiple requests or responses within one message. The information exchanged via Eucaris shall be transmitted in encrypted form.-

2. The Commission shall adopt implementing acts to establish the procedures and technical specifications, including cybersecurity measures for the automated searches conducted under Article 4. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 10a(2).

3. Until the implementing acts referred to in paragraph 2 of this Article have become applicable, the searches referred to in paragraph 1 of Article 4 shall be conducted in compliance with the procedures described in Chapter 3, points 2 and 3, of the Annex to Decision 2008/616/JHA³⁶, applied jointly with the Annex to this Directive.

4. Each Member State shall bear its own costs arising from the administration, use, maintenance and updates of the software application and its amended versions.

Article 4a

Mutual assistance in identifying the liable person

1. Member States shall provide mutual assistance to each other where, based on the results of the automated search conducted in accordance with Article 4(1), the Member State of the offence cannot identify the liable person to the necessary degree of certainty required by its national legislation to initiate or conduct the follow-up proceedings referred to in Article 5(1).

~~Mutual assistance may only be requested in the following cases:~~

~~(a) when the committed offence leads to a driver's licence disqualification in the Member State of the offence;~~

~~(b) when the financial penalty of the offence is higher than € XX or;~~

~~and only if the procedures described in Directive 2014/41/EU are not available for the authorities of the Member State of the offence in accordance with Article 6 of that Directive.~~

1a. Before requesting mutual assistance the competent authorities shall try to deliver the information letter as foreseen in Article 5a or use other databases as foreseen in Article 4c in accordance with the national law of the Member State of offence.

1b. Mutual assistance under this Directive may only be requested when the procedures described in Directive 2014/41/EU are not available for the competent authorities of the Member State of the offence in accordance with Article 6 of that Directive.

2. The competent authority of the Member State of the offence shall decide in accordance with the national law whether to request mutual assistance to obtain additional information referred

Commented [13]: The threshold for requesting MLA should not be related to a certain content of injustice of the traffic offence in question (driver's licence disqualification and financial threshold), but related to the fact that the MS of Offence has done its "homework" – which is trying to deliver the Information letter by post and/or trying to investigate on its own the liable person using RESPER.

to in paragraph 3, second subparagraph. The request may be issued only by an administrative or judicial authority, or by the police authority competent in the case concerned national contact point, in accordance with the national law of that Member State. The Member State of the offence shall use the data obtained in order to establish who is liable for road traffic offences listed in Article 2(1) of this Directive.

3. ~~When~~ The competent authority of the Member State of the offence ~~has decided to request mutual assistance in accordance with paragraph 1, it shall via its national contact point~~ send an electronically structured request to the national contact point of the Member State of registration or Member State of residence.

The Member State of registration or Member State of residence may be requested:

- (a) ~~to confirm, on the basis of information already in its possession, that it can be assumed to a reasonable degree of certainty that the person visually recorded by the detecting equipment of the Member State of the offence is registered as owner, holder or end user of the vehicle, or is any person presumed to be liable for one of the road safety related traffic offences listed in Article 2(1);~~
- (b) to ask the owner, holder or end user of the vehicle, or any person presumed to be liable for one of the road-safety-related traffic offences listed in Article 2(1) to provide information on the identity and address of the liable person, in accordance with its national law procedures applicable as if the investigative measure concerned had been ordered by its own authorities;
- (c) to establish the identity and current address of the owner, holder or end user of the vehicle, or any presumed liable person in cases where the address is unknown or uncertain, or the service of documents failed, in accordance with its national law.
- (d) to establish the identity and address of the owner, holder or end user of the vehicle in cases where the data exchange as set out in Article 4 led to a questionable result.

4. Where the Member State of registration or the Member State of residence receives a request referred to in paragraph 3, it shall gather the requested information, 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.

Commented [14]: AUSTRIA agrees to remove this kind of MLA :
MS should use RESPER (Article 4 c) and if this is not successful, use MLA lit (b) instead of lit (a)

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Commented [15]:
AUSTRIA suggests to introduce "Subsidiary Holder Investigation":
As the EC pointed out during one of the last Working Parties there is an error rate of about 7 % in the VRD data exchange, where data cannot be provided at all or not correctly.
In such cases it would be helpful to have a structured standardized form in order to obtain the data by MLA. This would increase the data protection of the affected holders and owners, because their data would not be shared between the MS via e-mail anymore.
Over time this would also reduce the error rate because MS could react to such cases and fix their registers. => lower administrative burden.

~~In the case referred to in paragraph 3, second subparagraph, point (b), the Member State of registration or Member State of residence shall request the information in accordance with the national procedures applicable as if the investigative measure concerned had been ordered by its own authorities unless it decides to invoke one of the grounds for refusal listed in paragraph 7.~~

The Member State of registration and the Member State of residence shall comply with the formalities and procedures expressly requested by the Member State of the offence, when gathering the additional information, to the extent that they are not incompatible with their national legislation.

5. Member States shall ensure that they provide the requested information without any undue delay from the receipt of the request. The requested information shall be transmitted electronically via the national contact points of the Member States.

Where it is not possible to gather the information, the national contact points of the Member State of registration or the Member State of residence shall inform the Member State of the offence as soon as possible.

~~6. The requesting Member States may provide, where applicable, for a prior administrative or judicial validation procedure in order to ensure that the requested information is necessary and proportionate for the purpose of the identification of the liable person, in particular taking into account the rights of presumed liable persons.~~

7. Member States may refuse to provide the additional information requested in accordance with paragraph 3. They shall do so only in the following cases:

- (a) there is an immunity or a privilege under the law of the Member State of the registration or the Member State of residence, which makes it impossible to provide the information;
- (b) providing the requested information would be contrary to the principle of *ne bis in idem* or would jeopardise an ongoing investigation of a criminal offence;
- (c) providing the requested information would be contrary to or would harm the essential interests of the national security of the requested Member State, jeopardise

the source of the information or involve the use of classified information relating to specific intelligence activities;

- (d) there are substantial grounds to believe that providing the requested information would be incompatible with the Member State of registration's or with the Member State of residence's obligations in accordance with Article 6 of the Treaty on European Union and the Charter of Fundamental Rights of the European Union;
- (e) providing the requested information would jeopardise the safety of an individual or reveal the identity of a person protected in accordance with the national law of the Member State of registration or the Member State of residence;
- ~~(f) where under the circumstances of the particular case, mentioned in paragraph 6, the requested information is not considered necessary and proportionate for the purpose of the identification of the liable person.~~

Member States which decide to apply a ground for refusal shall inform the Member State of the offence thereof via its national contact point, without any undue delay. Requested Member States may decide not to specify which ground of refusal it applies in the cases (b), (c) and (e).

~~9. The Member State of the offence, the Member State of registration or the Member State of residence may consult each other, by any appropriate means, with a view to facilitating the efficient application of this Article.~~

~~10. The request referred to in paragraph 2 and the information provided in response to that request shall be communicated in the language or one of the languages of the Member State of registration or Member State of residence as notified to the Commission, in accordance with Article 5a1(1).~~

11. The Commission shall, at the latest one year after the entry into force of this

Directive, adopt implementing acts to further specify the content of the standard electronic form for the request and the information provided in response to that request, the means of transmission of the information referred to in paragraphs 3 and 4, and the functionalities and technical specifications of the software

application for data exchange under this Article, including cybersecurity measures. The software specifications shall provide for both online asynchronous exchange mode and asynchronous batch exchange mode, as well as for transmission of the data elements in encrypted form.

The standard electronic form for the request shall include the following information:

- (a-1) the competent authority who requested mutual assistance;
- (a) if applicable, the administrative or judicial decision on the validation of the requested information, referred to in paragraph 6, and details on the authority that took the decision, if applicable;
- (b) data elements relating to the owner^s, holder^s or end user^s of the vehicle^s obtained as a result of the automated search conducted in accordance with Article 4(1) or any presumed liable person;
- (c) if available, the visual recording of the liable person retrieved from detection equipment, in particular speed cameras;
- (d) data relating to the road traffic offence, as referred to in Article 2;
- (e) data relating to the involved vehicle;
- (f) a reason for the request of mutual assistance.

Commented (16): Also the RESPONSES need to be defined for all measures foreseen in this Directive.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 10a(2).

Commented (17): No description – only as a drop-down value

Article 4b

National measures facilitating the identification of the liable person

1. Member States may take any measures in relation to the road safety-related traffic offences listed in Article 2(1) under their national legislation, in order to successfully identify the liable person, such as measures related to the obligation to cooperate in the identification of the liable person, provided that fundamental and procedural rights under Union and national law are respected. 2. In accordance with paragraph 1, Member States may, in particular:

- (a) serve documents to persons presumed to be liable of committing the road-safety-related traffic offences listed in Article 2(1), including documents asking these persons to confirm their liability;
- (b) apply obligations placed on presumed liable persons which are relevant to the identification of the liable person, to the furthest possible extent.

Article 4c

Use of other databases

~~‘Member States may use other databases such as driving licence registers or population registers for the sole purpose of the identification of the liable person. They shall do so only in so far as such use is allowed under Union and national legislation.’~~

For the investigation of the road-safety-related traffic offences listed in Article 2(1), Member States shall grant the competent authorities of the Member State of the Offence access via their national contact point and EUCARIS-RESPER to the driving licence registers with the power to conduct automated searches for the sole purpose of the identification of the liable person, as set out in Article 19 of the Directive 2022/2561 (new DL Directive). They shall do so only in so far as such use is allowed under Union and national legislation.’

Commented (18): This Article should be moved between Article 4 (VRD exchange) and Article 4a (mutual assistance)

Commented (19): These options are in the competence of each MS and do not have to be further regulated in the CBE Directive.

Commented (20): Note : The legal obligation behind this text proposal is existing EU law => Article 17 of the current DLD.

- (6) Article 5 is replaced by the following:

Article 5

Information letter on the road-safety-related traffic offences

~~1. The Member State of the offence shall decide whether or not to initiate follow-up proceedings in relation to the road-safety-related traffic offences listed in Article 2(1).~~

1. Where the Member State of the offence decides to initiate ~~such~~ proceedings, that Member State shall ~~promptly~~ inform the presumed liable person by an information letter about the road-safety-related traffic offence and ~~where appropriate, of the decision to initiate follow-up proceedings by an information letter.~~

Commented (21): Following the principle of subsidiarity AT rejects strict numeric time limits, as these should be defined in the national law in each MS.

PRES could ask all MS and provide the results in a table to have a base for decision making – as already suggested in Article 4-a.

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The information letter may serve other purposes ~~than those set out in the second subparagraph,~~ needed for enforcement, such as a request for payment or disclosure of the liable person.

2. The information letter shall contain at least:

- (a) the indication that the letter is issued for the purposes of this Directive;
- (b) the name, postal address, ~~telephone number~~ and e-mail address of the competent authority;
- (c) all relevant information concerning the road-safety-related traffic offence, in particular data on the vehicle with which the offence was committed, including the vehicle registration number, the place, date and time of the offence, the nature of the offence, ~~detailed~~ reference to the legal provisions infringed and, where appropriate, data concerning the device used for detecting the offence;
- (d) ~~detailed~~ information on the legal classification of the road-safety-related traffic offence, the applicable sanctions and other legal consequences of the road-safety-related traffic offence, including information related to driving disqualifications (including penalty points or other restrictions imposed on the right to drive), in accordance with the national law of the Member State of the offence;
- (e) ~~detailed~~ information on where and how to exercise the rights of defence or to appeal the decision to pursue the road-safety-related traffic offence, including the requirements for the admissibility of such an appeal and the time limit for lodging the appeal, and on whether and under what conditions *in absentia* procedures apply, in accordance with the national law of the Member State of the offence;
- (f) where applicable, information on measures taken to identify ~~of~~ the liable person in accordance with Article 4b;
- (g) where applicable, detailed information on the name, address and International Bank Account Number (IBAN) of the authority where an imposed financial penalty can be settled, on the deadline for the payment and on alternative payment methods, in particular specific software applications, as long as those methods are accessible to both residents and non-residents;

- (h) information on the applicable data protection rules, the rights of the data subjects and the availability of further information or reference to the place where this information may be easily retrieved pursuant to Article 13 of Directive (EU) 2016/680 of the European Parliament and of the Council, including information from which source the personal data originate, or Article 13 and 14 of Regulation (EU) 2016/679 of the European Parliament and of the Council;
- (i) where applicable, detailed information on whether and how the sanctions for the offences listed in Article 2(1) can be mitigated, including by early payment of a financial penalty;
- ~~(j) where applicable, a clear indication that the private or public entity which sends the information letter is a proxy empowered by the Member State of the offence in accordance with Article 5b and a clear delineation between the amounts of monies claimed, based on their legal ground.~~

3. Member States shall ensure that in the case where the liable person is a non-resident driver who was checked on the spot in a road control and where the enforcement is not finalised on the spot by the competent authority that liable person receives the information letter referred to in paragraph 2. This information letter shall be sent to the person concerned, as defined in the law of the Member State of the offence, ~~as soon as possible~~ after the date of the offence.

3a. Member States shall ensure that in the case where the liable person is a non-resident driver who was checked on the spot in a road control and where the enforcement of the committed offence has been finalised on the spot by the competent authority ~~with a transaction of the financial penalty paid by the liable person~~, this person shall receive at least the following information:

- (a) receipt of the financial transaction or a penalty charge notice to be paid within a specific period of time;
- (b) contact information of the competent authority;
- (c) information on the offences committed.

This document is not considered as an information letter.

Commented [22]: Is this option not in contradiction with the wording "enforcement of the committed offence has been finalized" ?

Commented [23]: Therefore, no other obligations apply, than those set out under lit a), b) and c).

4. Upon request of the presumed liable persons and as set out by the national law, the Member State of the offence shall ensure that access is granted to all material information in the possession of the authorities competent for the investigation of a road-safety-related offence listed in Article 2(1).

5. Member States shall ensure sufficiently long that the start of the time limits for non-residents to exercise their rights of appeal or to mitigate sanctions: in accordance with paragraph 2, points (e) and (i), correspond to the date of the receipt of the information letter or the receipt of the official decision on liability.

Commented (24): As Article 5a was amended allowing also normal delivery (without return receipt), this paragraph has to be adjusted accordingly. PRES could ask all MS and provide the results in a table to have a base for decision making – as already suggested in Article 4-a.

(7) The following Articles 5a, 5a1 and 5b are inserted:

'Article 5a

Service of the information letter and follow-up documents

1. Member States shall send the information letter and the follow-up documents to the presumed liable persons by post, registered delivery or electronic means with equal value in accordance with Chapter III, Section 7 of Regulation (EU) 910/2014 of the European Parliament and of the Council³⁷.

2. The Member States shall ensure that the information letter and any follow-up documents are sent as defined in the law of the Member State of the offence as soon as possible as soon as possible and in the case of the information letter no later than 3 months 12 months from the registration of a traffic offence listed in Article 2(1).

3. The Member State of the offence may send the information letter or the follow-up documents to the presumed liable persons via the authorities of the Member State of registration or the Member State of residence, in the following cases:

- (a) the address of the person for whom the document is intended is unknown, incomplete or uncertain;
- (b) the procedural rules under the national law of the Member State of the offence require proof of service of the document, other than proof that can be obtained by post, registered delivery or by equivalent electronic means;
- (c) it has not been possible to serve the document by post, registered delivery or by

Commented (25): Following the principle of subsidiarity AT rejects strict numeric time limits, as these should be defined in the national law in each MS.

PRES could ask all MS and provide the results in a table to have a base for decision making – as already suggested in Article 4-a.

equivalent electronic means;

- d) the Member State of the offence has justified reasons for considering that the service of the document by post, registered delivery or by equivalent electronic means in that particular case will be ineffective or is inappropriate.

~~4. The request referred to in paragraph 3 may be issued by an administrative or judicial authority, or by the police authority competent in the case concerned national contact point in accordance with the national law of the Member State of the offence.~~

The competent authority of the Member State of the offence shall transmit the information letter or the follow-up documents in an electronically structured form [via the national Contact Points](#) to the competent authority of the Member State of registration or the Member State of residence.

5. The Member State of registration or the Member state of residence shall ensure that the information letter and the follow-up documents to be served in accordance with paragraph 3 are served either in accordance with their national law, or when duly justified, by a particular method requested by the Member State of the offence, unless such method is incompatible with their national law.

6. The Member State of registration or the Member State of residence shall ensure that the competent authority provides [via the national Contact Point](#) an electronically structured response including:

- (a) where the delivery is successful, the date of service and data about the person receiving the document,
- (b) where the delivery is not successful, a reason for failing to deliver the information letter or follow up document shall be given.

~~7. The request referred to in paragraph 4 shall be communicated in the language or one of the languages of the Member State of registration or Member State of residence notified to the Commission in accordance with Article 5a1. The response referred to in paragraph 6 shall be communicated in the language of the Member State of the offence notified of the Commission in accordance with Article 5a1.~~

Commented [26]: There seems to be a wrong understanding on the conceptual level : The communication between the MS (requests + responses) is electronically structured. Therefore, NO TRANSLATION of the request/response is needed, as the request/response is being transformed into XML or equivalent data.

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12. The Commission shall adopt implementing acts to specify the content of electronic forms for the request referred to in paragraph 4 and of the response referred to in paragraph 6, and the functionalities and technical specifications of the software application for data exchange, including cybersecurity measures. The software specifications shall provide for both online asynchronous exchange mode and asynchronous batch exchange mode. The data shall be transmitted by using state-of-the-art encryption technology. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 10a(2).

Article 5a1

Interpretation and Translation of the information letter and follow-up documents

1. Where the Member State of the offence decides to initiate follow-up proceedings in relation to the traffic offences listed in Article 2(1), that Member State shall send the information letter and the essential text passages of the follow-up documents in the language of the registration document of the vehicle or any official language of the Member State of Registration chosen in accordance with paragraph 2.

Commented (27): AT proposes to avoid the concept of "essential documents" and suggests instead to refer to essential text passages. It is up to each MS, to decide what is essential - this does not have to be defined by the EU legislator.

~~For the purposes of this article, follow-up documents shall be considered essential if they impose any punishment on a person or contain any deadlines the non-compliance with which could effect the right of appeal or are essential for a presumed liable persons to gain the knowledge of the case raised against them.~~

Commented (28): The language regime of the CBE Directive shall not be amended in order to avoid obstruction by foreign offenders requesting translations in EU languages of their choice. In all/most MS there is the obligation to understand the official language, so the existing standard, to use the language of the MS of registration seems to be adequate.

~~Where the language of the registration document of the vehicle is not available, or when there are reasonable doubts on whether sending the information letter or the follow-up documents in the language of the registration document of the vehicle would comply with the protection of fundamental rights of the person concerned, the information letter and the follow-up documents shall be sent in the official language or languages of the Member State of registration or the Member State of residence of the presumed liable person.~~

~~In cases covered by the second subparagraph of this paragraph, where there are several official languages in the Member State of registration or the Member State of residence, the information letters and the follow-up documents shall be sent in the official language or languages of the region or other geographical sub-division where the address of the presumed liable persons is located, or in another language which that Member State has indicated it would accept. Each Member State shall communicate to the Commission any official language~~

of the Union, in which the information letter and the follow-up documents may be sent, where necessary broken down by regions or other geographical sub-divisions. The Commission shall make the list of the accepted languages available on the online portal referred to in Article 8.

~~1a. The competent authorities shall, in any given case, decide whether a follow-up document is essential.~~

~~1b. The competent authorities shall, in any given case, decide whether any other document is essential.~~

~~1c. There shall be no requirement to translate passages of essential documents which are not relevant for the purposes of enabling presumed liable persons to have knowledge of the case against them.~~

2. Member States shall ensure that the presumed liable persons are allowed to communicate in written form with the authorities of the Member State of the offence, until the stage of appeal before a court, in an official language of the Member State of the offence. In addition to that English may be used in exceptional cases if the competent authority accepts it, any of the languages communicated by either the Member State of registration or the Member State of residence, or by the Member State of the offence to the Commission in accordance with paragraph 1 or, if the concerned person has insufficient knowledge of those languages, in a Union official EU language that the person speaks or understands.

3. Member States shall ensure that the quality of the translation of the information letter and of the follow-up documents is at least of the standard laid down in Article 3(9) of Directive 2010/64/EU.

4. The Member State of the offence shall ensure that the information letter and the follow-up documents served to the presumed liable persons are reviewed effectively and rapidly by a competent authority with the power to adopt legally binding decisions, at the request of any person who has a vested legal interest in the outcome of the procedures initiated under Article 5, on the grounds that such documents do not comply with this Article.

Commented [29]: This language regime is reaching too far and can only be provided at a later stage in the proceedings - as set out by existing EU law. For AUSTRIA only (written) communication in the official language(s) of the MS of the offence is acceptable. If the EU legislator starts to allow communication in any EU language, this would open dangerous doors, as offenders will start to obstruct the CBE enforcement by sending letters in a language which is not understandable in the MS of the offence. As a result, payment rates will fall and offenders will start sending letters which have to be translated by the MS of the offence, crippling CBE enforcement, which is currently quite well established in some Member States. Result: Instead of 70-80% (voluntary) payment (status quo), many offenders will try to avoid payment by sending letters according to this Article.

Commented [30]: It is not clear, whether this review only relates to the issues of translation (arg.: on the grounds that such documents do not comply with this Article) – or, to the information letter as a whole.

Article 5 aa

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Mutual recognition of financial penalties issued for road-safety-related traffic offences

1. The Member States shall cooperate in the cross-border execution of final and enforceable decisions related to road-safety-related traffic offences listed in Article 2(1). For this purpose, they shall follow the procedures of the Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties, unless this Directive, in accordance with Article 18 of the Framework Decision, provides otherwise.

2. As set out in Article 3a, the competent authority of the Member State of the offence shall transmit the request for execution of a financial penalty in an electronically structured form to the Member State of registration or Member State of residence.

3. As set out in Article 3a, the competent authority of the Member State of registration or Member State of residence shall transmit the response to a request for execution of a financial penalty in an electronically structured form to the Member State of the offence.

[define request and response]

Commented [REDACTED] Due to time constraints we were unable to complete the full necessary text.

[x]. The Commission shall adopt implementing acts to specify the content of electronic forms for the request referred to in paragraph [x] and of the response referred to in paragraph [x], and the functionalities and technical specifications of the software application for data exchange, including cybersecurity measures. The software specifications shall provide for asynchronous exchange mode. The data shall be transmitted by using state-of-the-art encryption technology. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 10a(2).