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Respecting the Rules
Better Road Safety Enforcement in the European Union

A Consultation Paper

*Presented by the inland transport services
of the Directorate General for Energy and Transport*

INTRODUCTION

With this consultation paper, the services of the inland transport directorate of the Directorate General for Energy and Transport of the European Commission are calling for comments on their approach to road safety enforcement and co-operation throughout the European Union, with a view to preparing a Europe-wide initiative on this matter.

Comments should be sent until **19 January 2007** to the address mentioned under point 6.

1. PROBLEM DEFINITION

In its 2001 White Paper¹ on European transport policy, the Commission proposed that the European Union sets itself the target of halving the number of road deaths by 2010. This target was subsequently repeated in the European road safety action programme adopted in 2003² and was endorsed by the Council³ and the European Parliament.⁴

Encouraging road users to improve their behaviour by complying with basic road safety rules is a crucial element in this strategy. This applies especially to respecting applicable speed and alcohol limits and wearing seat belts, since these offences are the three main 'killers' on the road. In order to ensure compliance with the law, enforcement and follow-up of offences are necessary. Controls should be systematic; sanctions should be effective and applied to all offenders. Better enforcement is an efficient and cost effective means to help reaching the target of reducing the fatalities on European roads by 50% by 2010.

A study performed in the Member States before the enlargement of 2004 showed that good enforcement practices could avoid per year 5800 road fatalities resulting from speeding, 4300 road fatalities resulting from not wearing seat belts and 3800 road fatalities resulting from drink driving. 680.000 yearly injuries could be avoided.⁵

Moreover, non compliance with rules relating to professional road transport activities, such as driving and resting times or weight and dimensions, for trucks and buses, is an important cause of fatal accidents.

¹ European transport policy for 2010: time to decide [COM(2001) 370 final, 12 September 2001].

² European road safety action programme – halving the number of road accident victims in the European Union by 2010: a shared responsibility [COM(2003) 311 final, 2 June 2003].

³ Conclusions of the Transport Council of 5 June 2003, document 9686/03 (Press 146), p.22.

⁴ Resolution of 12 February 2003, OJ C43E, 19.2.2004, p.250.

⁵ Cost-Benefit Analysis of Road Safety Improvements – Final Report. ICF Consulting (2003).

In the Commission Recommendation of 21 October 2003 on enforcement in the field of road safety⁶, **the Commission committed itself to submit a proposal** for a directive in case that the 50% objective is likely not to be achieved.

Today, three years after the adoption of the Commission Recommendation, three basic facts have to be noticed:

- The mid-term review of the European Road Safety Action Programme⁷ showed that progress achieved by 2005 will not allow reaching the objective of 50% reduction, if the current trend continues. The reduction would then only be 35%;
- Road safety enforcement varies considerably between Member States, and Member States have also a varying safety record. The gap between the best and the worst safety record is 1: 4 in number of road fatalities;
- Traffic offences committed by non-residents are often not sanctioned, or sanctions are often not executed, as legal and technical instruments to pursue them across borders are lacking in the European Union;

Better enforcement would greatly contribute to the target of reducing the fatalities on European roads by 50% by 2010. However, more needs to be done to improve the enforcement instruments throughout the Union. This could be achieved by improving enforcement methods applied in the Member States, and by establishing a EU-wide system for facilitating cross border enforcement.

The Commission intends to present a proposal on better road safety enforcement in the European Union in 2007.

2. THE CASE FOR COMMUNITY ACTION

Member States and regional authorities enjoy a large degree of autonomy in the way they wish to act in order to improve road safety. This is especially true when it comes to action in the fields of human behaviour and infrastructures.

However, road safety policy is also part and parcel of the common transport policy, as Article 71 of the Treaty spells out.⁸ There is a case for complementary EU regulatory

⁶ Recommendation 2004/345/EC of 21 October 2003.

⁷ Communication from the Commission – European road safety action programme mid-term review [COM(2006) 74 final, 22 February 2006].

⁸ "For the purpose of implementing Article 70, and taking into account the distinctive features of transport, the Council shall, acting in accordance with the procedure referred to in Article 251 and after

action on enforcement for certain types of traffic offences under the safety provisions of the Treaty for the following reasons:

- All European citizens are entitled to a consistent level of road safety throughout the road network. They can expect that the road traffic laws in their Member State are respected equally by everyone and that they are not put in danger by a minority of drivers coming from another Member State who believe they can get away with illegal behaviour.
- After publication of the 2003 Commission Recommendation, the Commission has set up an expert group to gather and exchange relevant information and discuss implementation of the Recommendation by the Member States. The expert group consists of representatives of the traffic police and of policy makers in the field of traffic safety from all Member States and Norway and Switzerland. In the period 2004 - 2006, the Commission has held meetings with this group, and also meetings with three subgroups dealing with the topics: speeding, drink-driving and seat belt use, respectively. The discussions have contributed to further cooperation between Member States and to the introduction of best enforcement practices in several Member States. However, since a Recommendation is not legally binding, it has failed to result in an EU-wide introduction of best enforcement methods. A structured and systematic process all over the EU towards more stringent enforcement has not yet taken place. Also, as shown further below, it did not lead to the cooperation necessary to create an EU-wide system for effectively dealing with cross-border enforcement.
- Likewise, the Council Framework Decision of 24 February 2005 on the application of the principle of mutual recognition to financial penalties⁹ (hereafter: the Framework Decision) does not include all necessary measures; neither does it foresee specific mechanisms for road safety enforcement. Moreover, it only covers criminal offences. However, some Member States consider traffic offences are not necessarily being criminal, so such offences would not be covered. Moreover, the Framework Decision exclusively concerns final decisions, which means decisions not subject to further appeal. Since judicial procedures up to the final decisions are often lengthy, the mechanism provided by the Framework Decision may not be sufficiently efficient. In order to be efficient, enforcement in the field of road safety should benefit from a mechanism which allows offences to be notified and sanctions to be executed within a short time period. Finally, the Framework Decision does not cover non-financial penalties, such as addition or removal of penalty points.

consulting the Economic and Social Committee and the Committee of the Regions, lay down: (c) measures to improve transport safety".

⁹ The Council Framework Decision 2005/214/JHA of 24 February 2005 endorses the principle of mutual recognition of financial penalties, for the purpose of facilitating the enforcement of such penalties in a Member State other than the State in which the penalties are imposed. This Framework Decision also covers financial penalties in respect of road traffic offences.

- Evidence shows that respecting road traffic rules results in a significant decrease of road accidents and deaths. In particular, experiments on speeding speak for themselves. They have been executed in several countries, such as Sweden, the United States, Finland and Denmark, and confirm that a decrease of the average speed results in less frequent and even less serious accidents. Scientific studies and research have documented this impact on road safety¹⁰. The main results indicate that a given speed reduction results in a decrease of accidents with only material damage by a factor of one, a decrease of accidents with personal injuries by a factor of two, and a decrease of fatal accidents by a factor of four. Every time speed has been reduced, a positive impact on road safety has been monitored. Enforcement is a powerful means to encourage drivers to reduce speed. Moreover, evidence shows that it has short-term results and a large impact, as it applies to all categories of road users.
- Without action at EU level, enforcement measures only apply to non-resident traffic offenders when offences are subject to on-the-spot-fines. For this, police have to physically stop the vehicle and require drivers to pay immediately. Such enforcement measures are implemented at random and apply to a limited part of traffic offences, when compared with the high number of offences which are actually committed. These conditions leave many offenders unsanctioned and thus tend to encourage drivers not to respect traffic rules.
- When offences are not subject to on-the-spot-fines, but are registered by an automatic device, police cooperation for cross-border enforcement of traffic offences is either not being implemented properly or has to be performed through a complex and suboptimal web of varying bilateral agreements. Thus, non-resident traffic offenders are often not sanctioned. Not only does this impunity jeopardise road safety, but it is also discriminatory with respect to resident offenders who are subject to sanctions. While overall statistical evidence for the whole EU does not yet exist, the following figures show the potential magnitude of the problem: In **Luxembourg**, non-resident drivers account for 30% of road traffic offences and 23% of fatal accidents. In **France**, 25% of the traffic offences are committed by non-resident drivers in border areas and 15% throughout the road network. In the **Netherlands**, which on the contrary is not a transit country, over 10% of the traffic offences are committed by non-resident drivers. Test site findings on certain roads in **Switzerland** confirmed that while non-resident drivers accounted for 15% of the total daily traffic, they committed 50% of the traffic offences.
- There are precedents for a structured approach on enforcement rules at the EU level. The EU has already defined standard enforcement measures for a specific

¹⁰ Cohen/Duval/Lassarre/Orfeuille, *Limitations de vitesses : les décisions publiques et leurs effets*, (1998), p. 129; Elvik/Vaa, *The handbook of road safety measures* (2004).

group of road users, namely, professional drivers, in Directive 2006/22/EC¹¹ on social legislation relating to road transport activities. This directive defines the checks to be undertaken on driving and resting times, on the proper operation of the tachograph and on the speeds as recorded by this equipment. It makes the use of the digital tachograph and associated equipment (driver cards, vehicle units, equipment to check the tachograph sheets ...) mandatory. This legislation applies to the entire road network and not only to the Trans-European Road Network.

EU action could thus aim at:

- a) setting up a EU wide system for carrying out cross-border enforcement with a view to giving follow-up to traffic offences, in particular speeding, committed by non-resident drivers;
- b) providing a reference framework for convergence towards high quality and fair enforcement practices for road safety, especially on the trans-European network, with a recommendation to extend such enforcement to all roads, in conjunction with actions to inform the public on the subject and the reasons of enforcement.

The following chapters 3 and 4 will discuss and explain the possibilities of EU action in the field of cross-border enforcement, while chapter 5 will propose possible options for further actions.

3. ENFORCEMENT CO-OPERATION

In order to determine possible and useful EU actions in the field of road safety enforcement, it is essential to understand (1) how road safety enforcement works, (2) what exists already today in terms of cross-border co-operation and (3) what is needed in order to have a well-functioning cross-border enforcement system throughout the Union of 27 Member States.

3.1. Enforcement – how does it work?

Where road users fail to comply with road traffic laws, Member States' national legislation provides for the application of a range of financial and non-financial penalties.

Annex III gives a list of traffic offences and sanctions in the Member States.

3.1.1. Types of Penalties

Financial penalties require violators to pay a sum of money to the authorised agency as a

¹¹ Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC.

consequence of violation of road traffic law. While court-declared financial penalties continue to be widely used, there is an increasing use of 'fixed' and automated financial penalties for non-serious road traffic offences. As the amount payable is usually fixed by law, there is no requirement for the offender to attend court. This helps keep enforcement processes manageable and limits the workload on courts.

Besides financial penalties, there is a wide array of non-financial penalties in the field of road traffic enforcement:

- disqualification from driving and driving licence withdrawal;
- points-related penalties;
- disqualification from operating a vehicle;
- training and rehabilitation courses;
- community service;
- vehicle confiscation;
- immobilisation of vehicle.

3.1.2 The Enforcement Procedure

Declaration of the penalty for an infringement of road traffic laws is however just one step in the enforcement procedure, which is based on the following administrative pattern: (1) Registering the offence; (2) Identifying the owner or the driver; (3) Establishing the offence; (4) Sending the penalty notice; (5) Execution of the sanction.

(1) Registering the offence

Generally speaking, there are two basic ways to record offences to traffic law: either the offence is registered by stopping the vehicle and performing checks on the vehicle's occupants: the driver for alcohol and drugs, all the occupants for wearing seat-belts. Enforcement is carried out on the spot, or a ticket is issued directly to the offender and the offence is registered by the police officer. Or the offence is registered by an automatic device – this is the case for speeding, which is measured by fixed or mobile automatic equipment and increasingly also for not wearing seat-belts. In countries where automatic recording of offences is most advanced, enforcement typically goes through the following steps.

(2) Identifying the owner or driver

For offences registered automatically, the issue of identifying the owner and/or the driver arises. If the car is not registered in the country where the offence has been recorded, information on vehicle registration (license plate number) has to be transmitted to the authorities in charge of the vehicle registration database in the country where the vehicle has been registered. These authorities will then send back personal information on the car owner (name and address) to the authorities of the country where the offence has been committed.

For this transmission to work, data related to the committed offence - license plate number, date, place and type of offence – have to be first encrypted and then directly transmitted to a processing centre. Data can also be saved and stored by recording equipment (radar, camera, tachograph,...). In this case, data is downloaded from the recording equipment and transmitted to the processing centre by standard equipment operated by enforcement units in charge of carrying out the duties concerned.

In order to exchange information on vehicles and violation of traffic rules in an efficient way, a communication system is needed, both nationally and internationally. The exchange system should be robust, as it must allow short time transmissions of a very high volume of data and it should be a low-cost system open for all Member States. Also, a data security protocol has to be defined to guarantee the necessary data protection.

(3) Establishing an offence

Once all relevant details about the type of offence, the ownership of the car, and the vehicle registration have been collected, police authorities will establish that an offence has been committed and describe the specific infringement of the traffic code. Concerning offences which do not require the driver to be stopped - as in the case of automated speed enforcement -, the offences may be established through electronic methods, including an electronic signature. Homologation of enforcement equipment, which guarantees that the equipment meets the technical requirements according to the type-approval regulations, is necessary for establishing, through electronics methods, that an offence has been committed.

(4) Sending the penalty notice

After it has been established that an offence has been committed, a penalty notification is issued and sent to the car owner or driver of the vehicle with which the offence has been committed.

(5) Execution of the sanction

Finally, the fine will have to be paid and any other sanction executed. Member States apply different rules concerning the person who needs to pay the fine.

In countries where the driver is liable for paying the fine, drivers must be identified, and in some of these countries a picture of the driver is required for this purpose. In other countries, where the car owner is liable, a picture of the license plate number is sufficient to start sanction procedures.

Some Member States have a simple system: the car owners are liable and have to pay the fine, regardless of whether they were driving or not when the offence was committed. This is the case in the Netherlands where notifications of offences are sent to the car owners and require them to pay the fine, without any need to identify the drivers. Other Member States require the identification of drivers. France sends penalty notices to the car owners with a request that they name the driver. When they do not name the driver, they

are required to pay the fine. Also in Spain, penalty notices are sent to the car owners with an obligation to name the driver.

3.2 Existing mechanisms and instruments for road safety enforcement

In the European Union, where the free movement of persons and goods are among its founding principles, the possibility of infringing traffic laws outside one's home country or outside the country where the vehicle is registered, is quite real.

Various initiatives have been taken to address this problem and its consequences. Among them, one can mention bilateral agreements between individual Member States (*see 3.2.1*), multi-country instruments (*see 3.2.2*) and practical and sometimes informal means of co-operation between police forces (*see 3.2.3*). *Annexes I and II* to this document provide a full overview about existing instruments. At the same time, international co-operation between police forces, technology providers, ministries and research institutes has materialised in a number of European projects (*see 3.2.4*). All these initiatives have endeavoured to improve cross-border co-operation for the sake of greater road safety.

3.2.1 Bilateral agreements

Bilateral co-operation agreements have typically been signed in cases of countries having a high proportion of non-resident offenders from another, often neighbouring country. A case in point is the co-operation between Belgium, Luxembourg and the Netherlands. Also, transit countries, with a significant proportion of foreign traffic, have felt it necessary to resort to such bilateral agreements to improve co-operation. Thus, France has entered into agreements with its neighbouring countries Spain and Germany. There are also a few examples of local cross-border enforcement agreements operating between specific cities or regions on either side of a national border. This results in a certain number of "islands" of cross-border cooperation covering different aspects in setting and enforcing penalties on non-residents.

Most of these agreements have been based on existing treaties or agreements, or, for some of them, on exchanges of formal letters. The scope of these agreements varies across Europe, relating for example only to criminal road traffic offences or only to financial penalties of a certain level (e.g. Germany - Switzerland). Some of the agreements are one-way agreements requiring one of the parties to carry out actions at the request of the other party, but not vice-versa. Others are true bi-lateral or multilateral agreements applying all requirements and responsibilities equally to both parties.

As examples of the multitude of possibilities, four main bi- or multilateral types of agreements can be mentioned:¹²

¹² Source: project CAPTIVE (Common Application for Traffic Violations Enforcement), 100% funded by the European Commission.

- In the **Nordic countries**, cooperation between police agencies in Iceland, Norway, Sweden, Denmark and Finland has been formalised for a number of purposes including enforcement of penalties for criminal and civil road traffic offences. Cooperation at local level with recourse to a national police contact point, if necessary, is possible. Police agencies can request assistance for identifying drivers and supporting enforcement of penalties on residents of other participating countries. The legal basis is the European Convention on Mutual Legal Assistance¹³. A Police Cooperation Agreement¹⁴ between the Nordic police agencies provides the basis for the implementation of the principles into a national context and for the day-to-day cross-border cooperation. The agreement is considered to work well partly due to the geographical proximity of the participants, similarities in national languages and similarities in legal structures and requirements relating to road traffic offences.
- In the **Benelux countries**, cooperation is based on the European Convention on Mutual Legal Assistance and on article 49 of the *Schengen Treaty*. The basis for day-to-day cross-border cooperation is provided through a specific treaty, the Benelux treaty for the extradition and legal assistance for penal cases¹⁵. This allows for cooperation between courts and permits the effective transfer of court cases from the country where the offence has been committed, to the country of residence when this country is one of the signatory states.
- Cooperation between the **Netherlands and Germany** is based on the European Convention on Mutual Legal Assistance and on article 49 of the *Schengen Treaty*. The basis for day-to-day cross-border cooperation on criminal matters is provided through the *Agreement of Wittem*¹⁶.
- The **UK and Ireland** are working towards a bilateral agreement on driving licence disqualification. The principles of cooperation will be based on the European Convention on Driving Disqualifications, which however has so far only been ratified by Spain and Slovakia.

3.2.2 Multilateral European instruments

As has been shown above, bi- or multilateral agreements on road safety enforcement often use existing conventions, such as the Convention on Driving Disqualifications and the European Convention on Mutual Legal Assistance together with Article 49 of the Schengen Treaty.

¹³ European Convention on Mutual Assistance, Council of Europe, 20 April 1959

¹⁴ Nordic Police Cooperation Agreement, 1 January 2003

¹⁵ Treaty for the Extradition and Legal Assistance for Penal Cases between the United Kingdom, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands, 27 June 1962

¹⁶ Agreement of Wittem between the Netherlands and Germany regarding the supplementation and simplification of applying the European Convention on Mutual Assistance in Criminal Matters, 30 August 1979

There are other instruments relevant to co-operation and procedural aspects of cross-border enforcement at European level. The most relevant are cited below:

- The **Framework Decision** on the Application of the Principle of Mutual Recognition to Financial Penalties signed in February 2005. The deadline of transposition into the national law of Member States is March 2007. It provides for a mechanism for executing financial sanctions concerning traffic offences committed with vehicles not registered in the country where the infringement took place; it only covers criminal or quasi-criminal offences;
- The **European Convention on the Punishment of Road Traffic Offences** of 1964: this provides an administrative basis for enforcement of penalties and states what procedures and responsibilities have to be followed. Most importantly, this Convention allows for the majority of the enforcement process to be implemented under the rules of the state of residence. At present, this convention has been ratified by Denmark, Cyprus, France, Romania and Sweden;
- The **1999 Decision of the Schengen Executive Committee on the Agreement on Cooperation in Proceedings for Road Traffic Offences and the Enforcement of Financial Penalties**: this decision allows for the exchange of vehicle information and for the state of offence to send notifications directly to violators in their state of residence. The Schengen Information System was developed in support of the Schengen Treaty for the purpose of exchanging information for public safety and security, especially for the purpose of border checks and controls. It is governed by strict data protection laws. However, this decision is not yet in force;
- **The Treaty of Prüm** on the stepping up of cross-border co-operation, particularly in combating terrorism, cross-border crime and illegal immigration, was signed on 27 May 2005 by Austria, Belgium, Germany, Spain, France, Luxembourg, and the Netherlands. Finland, Portugal, Italy and Slovenia signed the Treaty in summer 2006. The Treaty allows mutual access to national vehicle registration data, via designated contact points, for the prevention and investigation of criminal offences. It is also dealing with other offences within the jurisdiction of the requesting State.
- **The so-called "Swedish Initiative"** (ENFOPOL 142) is a proposal for a Framework Decision on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the EU, based on the principle of availability. It only covers the first part of the enforcement chain, as it concerns cooperation between competent authorities until the owner of the car is identified. It does not deal with the follow-up of offences. Moreover, the working group in charge of car data is suspended.
- The **European Car Information System (EUCARIS)** has the purpose of facilitating exchange of information concerning vehicle registration data. EUCARIS is based on an intergovernmental treaty of 29 June 2000, today ratified by Germany, the Netherlands and Luxembourg. 11 other Member States are using

the EUCARIS information technology to various degrees. EUCARIS is designed to allow European countries to share information about vehicles and driving licenses specifically for the purpose of monitoring missing and stolen vehicles and to detect fraud.

This short overview shows that at this stage, there is no single consistent legal basis for all aspects of the cross-border enforcement process in road traffic across the European Union. Each piece of existing legislation only addresses parts of the enforcement process. Moreover, much of the legislation has not been specifically designed for road traffic enforcement purpose. Questions remain on the coherence of the legislation. Also, much of the legal framework is not binding and, thus often not applied. Finally, existing legislation does not support automated enforcement process and in many cases, the necessary technical framework for enforcement, such as data exchange between various administrations in Member States, are not yet in place.

3.2.3 Practical means of co-operation

Besides these formal instruments, traffic police forces have also found ways of informal and practical co-operation to improve cross-border enforcement, without a treaty or agreement base, largely through exchange of best practices and sharing information. One could mention the following initiatives:

- **TISPOL**, the European Traffic Police Network, is an initiative set up in 1996 to provide an **opportunity for police officers to share best practice** and to highlight and improve road safety across Europe. TISPOL members are police officers from 25 states including 21 EU Member States. TISPOL coordinates cross-border enforcement campaigns and organises seminars and conferences. It also encourages enforcement and education based on research and information to establish an effective cooperation programme.
- **ECR** (Euro Contrôle Route) is a group of European transport inspection services working in the field of **professional transport**, to enhance the quality of enforcement and to promote fair competition. It includes 10 EU Member States. The general aim of this organisation is to implement, through consultation, cooperation and common initiatives, the most efficient and harmonised check practices in the participating countries. It also gives inspectors the opportunity of training abroad.
- **CORTE**, the Confederation of Organisations in Road Transport Enforcement, was created in 2004 as an international non-profit association. It groups together at European level national bodies from 17 EU Member States with responsibilities in road transport for exchange of views and action on the European level. Members are for instance national road transport institutes, police inspectorates, ministries of transport.

3.2.4 Project Work

With support from the European Commission, various projects have been carried out or are being carried out in recent years to explore ways for an EU-wide systematic cross-border enforcement in road safety. Below is a summary of the most important ones.

The **CAPTIVE** project focuses on enforcement of sanctions for infringements of rules concerning driving licence, which are mostly other than financial sanctions. It identifies the steps that could be taken at European level to implement a common approach to cross-border enforcement involving all Member States. CAPTIVE aims to define which enforcement processes need to be undertaken in a common way and in accordance with common operational standards. It does not seek to prescribe or harmonise enforcement processes in the Member States. Rather, the common approach seeks to ensure that States can easily cooperate with each other for the purpose of cross-border enforcement as and when necessary.

The **Video Enforcement for Road Authorities 2 (VERA2)** project focused specifically on addressing the barriers preventing effective cross-border enforcement in Europe through automated equipment. It proposed a model for an electronic network for the exchange of relevant data between the national authorities concerned (eNFORCE) and a text for a draft directive on cross-border enforcement. It also provided a framework for a European type-approval agreement for digital enforcement equipment.

VERA 3 has been launched in August 2006. It is a pilot project for setting up an electronic system for the exchange of information necessary for cross-border enforcement. It will focus on exchange of infringement information and notification to non-resident offenders, with the possibility of delegation of authority to enforce financial penalties in accordance with the Framework Decision on Financial Penalties. This will happen in an operational environment through cooperation of authorities in Spain, the Netherlands, Austria and France.

The **REMOVE** project deals with enforcement of relevant rules for professional transport, in particular weights and dimensions. It is developing a technical and operational strategy to harmonise the enforcement of overloaded vehicle violations throughout Member States. The outcome of this project could be a useful example of how barriers to cross-border enforcement of specific infringements could be addressed and subsequently expanded to cover other offences.

The **FAIR** project is looking at the integration of up-to-date enforcement technologies with effective enforcement strategies derived from best practice across the Member States. FAIR aims to use this information to create a technologically sound enforcement chain that could have important operational impacts on the process of cross border enforcement.

The **PEPPER** project within the 6th EU Framework Programme for Research and Technological Development examines existing police enforcement approaches, their linkages with relevant national policies and describes how information can be better disseminated to make the enforcement chain more efficient, in particular in the fields dealt with in the Commission Recommendation on road safety enforcement. It will also assess good practices in traffic law enforcement, with special emphasis on speeding, drink-driving and seat belt wearing.

The **Transport Document System (TDS)** is a project for the development and testing of a digital expert system to support the checking of road transport documents by European enforcement agencies. If successful, such a system could greatly improve the efficiency, quality and accuracy of roadside checks involving non-resident drivers. Inconsistencies in driving licences and other legal documents would be apparent to enforcement officers who stop a vehicle at the roadside.

RESPER is a project aiming to develop a system for exchanging information between driving licence authorities in Member States. RESPER will focus on the exchange of driving licence data for the purposes of road traffic-related enforcement.

3.2.5 Conclusion

In conclusion, a large variety of technical and regulatory instruments does exist in Europe, which facilitate, to a certain degree, cross-border co-operation and enforcement. All these instruments have geographical, institutional or technical limitations. They have been set up in very different political or time-related horizons and have responded to pressing needs for specific types of co-operation, with specific types of technologies.

Research work undertaken with Commission support shows how to improve the operational aspects of various agreements in a setting where police and other enforcement agencies of 27 Member States can work effectively together.

3.3 A tool box for a well-functioning cross-border enforcement system

Chapter 3.2. has provided a very summary overview of the road safety enforcement landscape in Europe today. This gives the opportunity to identify where there is room for further improvement and possible Community action. The Commission services start from the premise that existing instruments and experience should be taken into account when devising an EU wide cross-border enforcement system.

First, enforcement authorities throughout the 27 Member States should be able to rely on a performing information system throughout Europe to identify vehicles and persons. Information which needs to be exchanged should be precisely defined and stated. Each Member State should make it available to other Member States for the purpose of enforcement.

Second, type-approval standards should be recognised in all Member States in order to facilitate acceptance of offences and mutual recognition of evidence.

Third, electronic signature of notifications should be allowed and recognised in all Member States.

Fourth, penalty mechanisms such as the ones developed in the Framework Decision, should apply in all Member States to all penalties and sanctions, not just to financial penalties above 70 €, as provided for under the Decision.

4. CONVERGING ON ENFORCEMENT

4.1. Improving the quality of enforcement

Beyond the practical co-operation in enforcement, a case may be made for improving the quality of enforcement throughout the European Union.

Following the Recommendation of 2003, enforcement actions focus today on speeding, drink-driving and non-use of seat belts for all drivers. It has been shown that these three types of offences are the main causes of fatalities in EU road traffic.

Another main cause of fatal accidents is non compliance with social legislation relating to professional road transport by trucks and buses. It is estimated that 14% of road deaths occur in accidents involving trucks in the EU.

Today, there is ample scientific, research and practical evidence on the type of instruments and equipment to be used and mechanisms to be applied in order to improve the quality of enforcement. The general approach is to increase the frequency of controls to ensure that offences are followed-up as a matter of course, and that citizens are aware of this enforcement and the reasons behind it. Member States which have applied this approach have had very good results.

Given the very high number of traffic participants throughout the Union, such an approach can only work if it is based, wherever possible, on automated processes. Following scientific and practical evidence, the Commission's services see the following techniques and methods as best available practices:

- For speeding, the use of automated speed enforcement equipment followed up by highly automated procedures;
- For drink-driving, the application of random breath testing and the roadside use of evidential breath test devices;
- For the use of seat belts, regularly carrying out intensive enforcement actions;
- For infringements of the social legislation for road transport activities, minimum conditions with respect to the enforcement methods and equipment have been defined. Annex I and II to Directive 2006/22/CE define the items to be checked, such as daily and weekly driving times, speed as recorded on the tachograph and correct functioning of the tachograph. Standard equipment to be made available to enforcement units is also defined.¹⁷

¹⁷ See Annex on Directive 2006/22/CE, annex I, II, III, IV.

4.2 Information actions

For all enforcement areas, enforcement actions could be combined with actions to inform the public on the subject and the reasons of these actions. Several strategies could be implemented and several medias could be used, each of them for specific purposes:

- Publicity campaigns can inform the public on the type of enforcement actions that are being carried out; they could disseminate messages on road safety as well as how enforcement contributes to saving lives;
- Road side information informs the drivers on location of fixed enforcement equipment. Specific road signs could be designed to prevent misunderstanding and mixing up of messages. They could display clear and straightforward messages, easily understandable across language barriers;
- Information on location of fixed equipment as well as mobile devices may also be available on public websites and road maps. This information should be systematically accompanied with road safety information, e.g. speeding risks, decrease of alertness when drink-driving, relation between speed and accident severity in case of speeding, the specific risks of not using seat belts and of drink driving.
- Information given by call centres could focus on the enforcement process and inform drivers and vehicle owners on follow-up procedures and citizen rights. These centres could be operated by trained operators. To give appropriate information will prevent drivers and vehicle owners from contesting sanctions in most cases. Such actions could reduce court workloads and increase the credibility of the enforcement system for the public.

5. POLICY OPTIONS

Taking into account existing measures and instruments in the Member States, one could consider the following five options for Community action on enforcement:

5.1. Business as usual

One option is to leave everything as it is. Each Member State applies enforcement measures and implements enforcement actions according to its own legislation. The EU Recommendation of 2003 provides the competent authorities with guidelines to improve enforcement practices. Police forces use the available equipment.

Foreign offenders are to be prosecuted by the competent authorities of the countries where the offences have been committed, under national legislation. In most countries, procedures do not provide for possibilities of efficient cross-border enforcement.

In a few countries, inter-governmental agreements allow for some follow-up of offences committed by non-residents, based on the exchange of information between authorities in charge of national registration databases.

Best practices are exchanged between Member States on the basis of the Recommendation. There is no special implementation mechanism; implementation of the recommended measures relies on existing technical conditions, national legislation and often personal motivation of police forces. Differences between the Member States in terms of quality and quantity of enforcement actions and results may not be reduced. Unequal treatment of EU citizens remains.

5.2 Cross-border enforcement, structured best practices, recording of data

Option 2 is based on a more structured exchange of best practices between Member States and more systematic cross-border enforcement by all Member States on their territory.

Based on the Recommendation, exchanges of best practices between the Member States are structured at the EU level, through collection and analysis of data and statistics, report meetings, dissemination of tools through a common forum, which could be managed by the European Commission.

Non-resident offenders are prosecuted by the competent authorities of the countries where the offences have been committed, under national legislations. When the vehicle, with which an offence has been committed, is not stopped by the police forces, the number plates are recorded. Enforcement officers shall be provided with information on the recorded vehicles. Sanctions will be enforced when the recorded vehicles are stopped and checked by the enforcement units in the country, where offences have been committed.

With regards to cross-border enforcement, the danger of non-resident impunity is lowered. However, without a Europe-wide information exchange system and mutual recognition of evidence, only non-resident drivers, who return to the country, where they have committed an offence previously, are sanctioned.

5.3 Cross-border enforcement and open, Europe-wide information exchange

This option would include the structured exchange of best practices, as explained in option 5.2.

With regards to offences committed by drivers of vehicles registered in another Member State, the owners of the vehicles are identified through an information exchange system established at EU level, to which all national authorities in charge of national registration databases are connected.

Over and above the cross-border enforcement practices described under 5.2, penalty notices are sent in the language of the car owner by the competent authorities of the country where the offence has been committed. Sanctions are executed in the country where the offence has been committed, under national legislation.

Option 3 has a strong impact on reducing impunity: all offences committed by non-resident drivers are followed up. Such systems have proved to act as a deterrent in countries where they have been implemented, such as the Netherlands and France. However, in the absence of mutual recognition of evidence, the impact is suboptimal, since sanctions against non-resident offenders are rarely executed.

5.4 Cross-border enforcement and sanction in the resident country, mutual recognition of evidence

Over and above the practices described under 5.3, administrative and judicial enforcement decisions are, where necessary,¹⁸ transferred to the competent authorities for prosecution and execution of sanctions.

Sanctions are being executed by the competent authorities in the country, where the offender is normally resident. This measure would be based on the principle of mutual recognition of the evidence established by enforcement officers in the Member States, which means regulating the admissibility of evidence and transferring it to the resident state. This kind of system is in place between Germany and Austria. It is important to realise that such a mechanism is not covered by the Framework Decision on mutual recognition of financial penalties. This Decision only concerns final decisions, and moreover leaves to the discretion of each Member State the opportunity of executing or not fines of less than 70 €. However, as under the Framework Decision, the measure proposed also assumes mutual recognition of penalties between the Member States.

5.5 Converging on targets and standards for enforcement of rules

In this option, enforcement methods and measures implemented by Member States, including information actions, are required to meet common standards and targets established by a regulatory framework. A model could be the Directive 2006/22 on professional transport¹⁹.

Building on such common targets and standards and the subsequent exchange of information, notification letters could be issued and sent by the competent authorities of the residence country. Sanctions are executed by the competent authorities in the country where the offender is normally resident. Such a system is not applied at present.

This measure is based on mutual recognition of evidence as provided by the enforcement equipment. As a result, new technical type approval measures are needed at the EU level.

¹⁸ This will be necessary if these administrative and judicial enforcement decisions have not yet resulted in execution of the sanction.

¹⁹ Directive 2006/22/EC on social legislation relating to road transport activities – Article 11, Annex I, II, and III.

6. Call for comments

The services of the Commission are calling for comments on the initiative, as outlined above. They would in particular be grateful for getting comments on the following questions:

1. Do you agree with the definition of the problem and the objectives of the intended EU actions?
2. Should EU actions be limited to the Trans-European Road Network or cover all EU roads?
3. Should EU actions be limited to the three main traffic offences responsible for road accidents and deaths, namely speeding, drink-driving and non-use of seat belts, or should they cover all traffic offences?
4. Which one of the described policy option would have your preference? Do you have any specific comments related to implementation issues?
5. Are there policy options other than those described in this paper that you would like to suggest?
6. Do you have specific comments on the costs and benefits of the different instruments / measures?
7. Is there any other comment you wish to make?

Comments should be sent by fax or e-mail, not later than **Friday, 19 January 2007**, to:

European Commission

Directorate General for Energy and Transport

Road Safety Unit

Reference: "Cross-border enforcement"

Fax: 00 32 2 296 5196

E-mail: TREN-E3-CONSULTATION@ec.europa.eu

The Commission intends to publish the comments received. After the consultation period, the Commission will convene a consultation meeting in Brussels with all interested parties.
