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## LEGAL ASPECTS OF POLICE COOPERATION IN CROSS BORDER ENFORCEMENT OF TRAFFIC OFFENCES IN THE EUROPEAN UNION

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**Summary.** Traffic offences are one of the most important cause of fatalities and bad injuries traffic accidents. EU Commission identified DUI (Driving Under Influence of alcohol and/or drugs), overspeed, misuse of seatbelts and distraction during driving time as the “*fatal four*”. To obtain the reduction of 50% of the victims on the roads (as the main target imposed to MS during the 2011-2020 period) is mandatory to reduce the total number of specific violations. Statistics show that more than 90% of the offences committed by non-residents were not followed-up at the EU level, causing a lack of effectiveness for the penalties. A better police cooperation in Cross Border Enforcement of traffic offences is one possible solution to the specific problem. The legal basis of this specific kind of cooperation, able to produce an effective solution, obtaining transnational effectivity for specifically and most dangerous traffic offences, is the so called “*CBE-Cross Border Enforcement*” Directive, nr. 2011/82/EU, dated 25<sup>th</sup> October 2011, *facilitating the cross border exchange of information on road safety related traffic offences*, replaced, after the 6<sup>th</sup> May 2014 European Court of Justice Decision nr. (ECJ)43/12, by the new Directive nr.2015/413/EU, adopted on 11<sup>th</sup> March 2015 and having the same subject, with a legal basis under the EU Transport Policy and referred to article 91(1)(c) TFEU. The analysis of actual situation also suggests a future improvement of CBE in MS, with the possibility to improve the number of transnational traffic offences covered by the Directive, based on article 91(1)(c) TFEU.

**Keywords.** Police cooperation, cross border enforcement, traffic offences, road safety, transport policy, exchange of information.

### INTRODUCTION

Improvement of road safety is one of the most important target of EU 27(+1) 2020 Strategy and on this field a specific role is covered by the police cooperation, recently improved by several cross borders initiatives. “*CBE-Cross Border Enforcement*” Directive, nr. 2011/82/EU, constitutes the pillar of the cooperation related to traffic offences, that constitute the main causes of road fatalities and road accidents more in general. Referred to the actual literature, Townsend <sup>1</sup> analysed the importance of the Directive and the need of a follow up,

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<sup>1</sup> Townsend E. – (a) *Briefing on the CBE Directive*. ETSC Paper, Bruxelles, 2014. (b) *Compaigners and Traffic Police for revision of Cross Border Enforcement rules*. ETSC Paper, Bruxelles, 2014. (c) *EU Cross Border Directive*. ETSC Paper, Bruxelles, March 2015. (d) *Follow up needed on EU Cross Border Enforcement rules*.

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discovering the CBE is not being used at full potential, also on the basis of requests from campaigners and Traffic Police Forces. Vavoula <sup>2</sup>examined the ECJ Decision 43/12, concerning the legal basis of CBE Directive, arising from the interinstitutional conflict between the Commission and the Parliament and Council, whereby one considered the Directive such a part of the EU Transport Policy and the other opined that it constitutes a shared police cooperation measure. Both TISPOL <sup>3</sup> and ETSC<sup>4</sup>, the most important European Networks on road safety, underline the fundamental role of the CBE Directive in developing road safety.

On this framework, the subject of the current study is to evaluate the effort of the Directive in road safety improvement, analysing the legal basis and legal aspects of police cooperation in cross border enforcement of traffic offences.

The **objective** is to evaluate legal basis of CBE and verify if it has a specific role in Police Cooperation.

**Tasks** set for the current paper are focused on the discussion about related legal aspects, following the ECJ Decision 43/12, and on the examination of the real effect that CBE give to road safety in general and specifically to the decrease of fatalities and serious injuries road accidents.

In order to finalize the study **descriptive and analytical methods** were used, focusing attention on existing and current literature and figures, trying also to evaluate EU Decisions and Programs on the topic of road safety, as CBE related.

## TRAFFIC OFFENCES AND ROAD SAFETY

### Phenomenon overview

In the 27(+1) EU Member States road accidents are the main cause of death of young people aged between 16 and 25. About 25,250 people killed in road accidents in the E.U. during 2017 and 135,000 bad injured, with an average of 49 road fatalities per millions of inhabitants. The phenomenon, that individuated the bad years in the period 2014-2017, has an annual social cost of €120 billion.<sup>5</sup>

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ETSC Paper, Bruxelles, 2016. (e) *Cross Border follow up of traffic offences not being used at full potential*. ETSC Paper, Bruxelles, 2017.

<sup>2</sup> Vavoula N. – *Exchanging information on road traffic offences: a measure of Police Cooperation or Transport Policy?* New Journal of Criminal Law, Vol.7, Issue 1, 2016.

<sup>3</sup> TISPOL – *Annual Report 2017*. TISPOL Paper. Manchester (UK), 2017.

<sup>4</sup> ETSC - *Briefing on the Cross Border Enforcement Directive*. Bruxelles, 2014. Retrieved July 30, 2018, from <http://etsc.eu/briefing-on-the-cross-border-enforcement-directive/>

<sup>5</sup> Townsend E. - *EU Strategic Plans on Road Safety*. ETSC Paper, Bruxelles, 2018.

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According to the EU statistics, there are three main factors in causing traffic accidents, identified in:

- infrastructural deficiencies of the roads;
- conditions of motor vehicles;
- traffic offences (in terms of driving misconduct or not respect of traffic rules, also related to the psychophysical conditions of drivers).

Traffic fatalities are caused in 90% of cases by four main traffic offences, so called “*fatal four*”, as:

- DUI (Driving Under Influence of alcohol and/or drugs);
- overspeed;
- misuse of seatbelts;
- distraction during driving time.

Actions focusing on these four factors could help to meet more than half the target of halving the number of people killed on the roads at EU level. At MS national level, Road Safety Action Plans provide specific strategies against these offences and a fundamental role has the application of appropriate sanctions.<sup>6</sup>

### **Role of sanction in road safety**

Sanction has a strategical role in road safety, according to its role as specific punishment and its own educational nature in reporting to sanctioned drivers that they have broken the social order by breaking a traffic rule, and also because of the perception of the risk of being sanctioned.

Sanction acts in function and in the interest of a rule, indicating that a law or a rule has been violated and preventing from happening again in the future. To obtain a real effort is necessary that a cost is imposed to the offender and that the offender understand and perceive that is not possible to avoid this cost.<sup>7</sup>

If the sanction is not effective in these terms, it is not useful to apply a sanction to punish a traffic offences because there is not the perception, for the driver, of a real punishment and penalty. The sanction must have both a punitive and a deterrent nature.<sup>8</sup> Correct adoption of

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<sup>6</sup> Wegman F., Oppe S. – *Benchmarking Road Safety Performances of Countries*. Safety Science 48. SWOV Institute for Road Safety Research. Leidshendam – The Netherlands, 2010.

<sup>7</sup> Aldrighetto G., Conte R., Giardini F. (2011) – *Le basi cognitive della contro-aggressione: vendetta, punizione e sanzione*. LABBS. Institute of Cognitive Science and Technologies NRC; 2011.

<sup>8</sup> Giannini A.M., Lucidi F. – *The young driver's paradox*. Sei Editrice. 2007.

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graduated sanctioning system in National Traffic Codes shows during a decade period the decrease of violations and, on the same level, a general decrease of road accidents related to driving misbehaviour or misconduct.<sup>9</sup>

## **POLICE COOPERATION IN CROSS BORDER ENFORCEMENT OF TRAFFIC OFFENCES**

### **Cross Border Offences and police cooperation**

It is estimated that more than 90% of the road and traffic offences committed by non-residents were not followed-up at the EU level<sup>10</sup> and non-resident drivers account for approximately 5% of road traffic in the EU. However, 15% of the number of detected speed offences are committed by non-resident drivers. A foreign-registered car is three times more likely to commit traffic offences than a domestically-registered one.<sup>11</sup>

CBOs is a big phenomenon in Countries with high levels of transit and tourism traffic, such as Austria, Belgium, France, Germany, Hungary, Italy, Luxembourg, Poland or Spain.<sup>12</sup> In Italy, in example, speeding offences committed by foreign registered cars reach approximately 25% of the total, with the figure going up to 40-50% of the total during periods of high transit and tourism.<sup>13</sup> Ordinary procedure, for Traffic Police Forces, in persecuting CBOs, is to follow the rules of the Vienna Convention on road traffic offences of 1968, of which many MSs were and are parties but it was not used in practice for CBOs but only for more serious offences such as those causing accidents.<sup>14</sup> Otherwise CBOs constituted an area falls outside the competence of the different Member States as they cannot prosecute offenders outside their territories.<sup>15</sup>

There are also several differences of the legal basis of traffic rules violations<sup>16</sup> in each MS, some in where are administrative violations, in other penal crimes, with different procedures to follow and with more different penalties, sanctions and punishment .

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<sup>9</sup> CARE – *Annual Report on Road Accidents in EU* – European Commission Press, Bruxelles, 2016.

<sup>10</sup> Townsend E. - *EU Cross Border Directive*. ETSC Paper, Bruxelles, March 2015.

<sup>11</sup> Admaite D., Jost G., Stponk H., Ward H. - *Ranking EU progression on Road Safety.11th Road Safety Performance Index Report*. ETSC, Bruxelles. June 2017.

<sup>12</sup> ETSC - *How Traffic Law Enforcement can contribute to safer roads*. ETSC Paper. Bruxelles, 2016

<sup>13</sup> Italian Traffic Police – Database on road accidents referred to year 2017. Retrieved July 27, 2018, from [www.poliziadistato.it](http://www.poliziadistato.it)

<sup>14</sup> Dörr O., Schmalenbach K. – *The Vienna Convention*. Springer, 2018.

<sup>15</sup> European Commission. - *Proposal for a Directive of the European Parliament and of the Council facilitating cross-border enforcement in the field of road safety COM(2008) 151*. EU. Bruxelles, 19 March 2008.

<sup>16</sup> Elvik R., Veinsten K. – *Barrier to the use of Efficiency Assessment Tools in Road Safety Policy* – Workpackage 2 of the European Research Project ROSEBUD TOI Rapport 785/2005. Institute of Transport Economics Oslo, 2005.

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Current co-operation agreements exist in the form of bi-lateral and multi-lateral agreements and many EU Member States already have systems in place to follow up traffic fines. However they are often not able to deal with the increasingly complex cross-border problems posed by traffic offenders.<sup>17</sup>

Traffic Police Forces, on the field of police cooperation were not able to pass this lack of effectivity in sanctioning, because the two most important cooperating networks at EU, nominally TISPOL (European Traffic Police Network) and CARPOL (Network of contact points between all Member States in order to better coordinate investigations activity against trafficking of stolen vehicles) do not cover the specific field on exchange of information for CBOs.

Giving a strong effort to solve the impasse, the European Commission, in its Proposal for a Directive of the European Parliament and of the Council facilitating cross-border enforcement in the field of Road Safety-Full Impact Assessment (COM(2008) 151), announced further actions on both issues, cross-border enforcement of road traffic penalties and efficient enforcement practices in the Member States.

The European Union established legislative action mainly provided for a Directive for setting up an information exchange system and appropriate cross-border cooperation between competent authorities (included Police Forces) to identify non-resident holders of vehicles who have committed an offence.<sup>18</sup>

## **LEGAL BASIS OF CROSS BORDER ENFORCEMENT OF TRAFFIC OFFENCES IN THE EUROPEAN UNION**

### ***CBE Directive nr. 2011/82/EU, facilitating the cross border exchange of information on road safety related traffic offences***

Cross Border Enforcement is referred to the pursuit of traffic offences committed by drivers of a car which is registered in an EU Member State different than the one where they were detected.<sup>19</sup>

The most important step towards a real police cooperation at EU level on the field of CBOs was the adoption of Directive 2011/82/EU of the European Parliament and the Council

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<sup>17</sup> Townsend E. – *Briefing on the CBE Directive*. ETSC Paper, Bruxelles, 2014.

<sup>18</sup> European Commission. - *Proposal for a Directive of the European Parliament and of the Council facilitating cross-border enforcement in the field of road safety COM(2008) 151*. EU. Bruxelles, 19 March 2008.

<sup>19</sup> Gössel B. – *Cross border traffic police enforcement: a descriptive and explanatory cross-sectional study on the role of EU's fight against the "Three main killers" on EU roads*. University of Twente. June 2015.

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of 25 October 2011 *facilitating the cross-border exchange of information on road safety related traffic offences* (OJ L 288, 5.11.2011). Exempt from the United Kingdom, Ireland and Denmark that have opted out<sup>20</sup>, MS had transposed CBE *Directive* into their national legislation by 7 November 2013.<sup>21</sup>

CBE Directive aims to ensure a high level of protection for all road users in the EU by facilitating the cross-border exchange of information on road safety related traffic offences and thereby the enforcement of sanctions, where those offences are committed with a vehicle registered in a Member State other than the Member State where the offence took place (OJ L 288, 5.11.2011, art. 1).

CBE Directive requested that a system of cross-border exchange of information should be put in place for certain identified road safety related traffic offences, regardless of their administrative or criminal nature under law of the Member State concerned, granting the Member State of the offence access to Vehicle Registration Data (VRD) of the Member State of registration (OJ L 288, 5.11.2011, art. 6).

A more efficient cross-border exchange of VRD, which should facilitate the identification of persons suspected of committing a road safety related traffic offence, may increase the deterrent effect and induce more cautious behaviour by the driver of a vehicle that is registered in a MS other than the MS of the offence, thereby preventing casualties due to road traffic accidents (OJ L 288, 5.11.2011, art. 7).

CBE Directive cover eight specific traffic offences related to the road safety, namely (OJ L 288, 5.11.2011):

- driving under influence of alcohol;
- driving under influence of drugs;
- overspeed;
- misuse of seatbelts;
- failing to stop at a red traffic light;
- failing to wear a safety helmet;
- use of a forbidden lane;
- illegal use of mobile phones or any other communication device while driving (this offence is strictly related to the bigger concept of “*distraction*”)

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<sup>20</sup> European Commission - *Road Safety: Clamp-down on traffic offences committed abroad- FAQ*. Bruxelles, 2013. Retrieved July 27, 2018, from [http://ec.europa.eu/transport/newsletters/2013/11-08/articles/cbe\\_memo\\_en.htm](http://ec.europa.eu/transport/newsletters/2013/11-08/articles/cbe_memo_en.htm)

<sup>21</sup> ETSC- *Briefing on the Cross Border Enforcement Directive*. 2014. Retrieved July 30, 2018, from <http://etsc.eu/briefing-on-the-cross-border-enforcement-directive/>

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**Directive nr.2015/413/EU, replacing CBE Directive nr. 2011/82/EU, *facilitating the cross border exchange of information on road safety related traffic offences***

Following the ECJ Decision 43/12, a new Directive 2015/413 was adopted in March 2015 with a legal basis under the EU Transport Policy.<sup>22</sup> EU Member States transposed the new legislation into their national law by May 2015.

In the meantime the 2011/82 Directive remains in place at national law level until this has been replaced by the newly transposed legislation.<sup>23</sup> Three Countries, nominally UK, Ireland and Denmark have obtained a later transposition deadline of May 2017.

**Council Decision 2008/615/JHA of 23<sup>rd</sup> June 2008**

For several types of CBOs not covered by the CBE Directive continue to be possible, also in terms of police cooperation activity, to apply the Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008). The Decision<sup>24</sup> aims to improve the exchanges of information between the Authorities responsible for the prevention and investigation of criminal offences.<sup>25</sup>

The possibility to use this provision is strictly related to the legal identification of a traffic violation as crime (as for example in case of DUI or of “*hit and run*” as well for “*road homicide*”) into a MS national legislation and cover the possibility to the automated access to certain national vehicle registration data by the Police Forces.<sup>26</sup>

Application of Council Decision 2008/615/JHA continue to be an effective measure for stepping up cross-border police cooperation on the field of CBOs.<sup>27</sup>

**Framework Decision 2005/214/JHA on the mutual recognition of financial penalties**

Framework Decision 2005/2014/JHA of 24<sup>th</sup> February 2005 on the application of the principle of mutual recognition to financial penalties, as amended by the Framework Decision

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<sup>22</sup> Townsend E. – *Follow up needed on EU Cross Border Enforcement rules*. ETSC Paper, Bruxelles, 2016.

<sup>23</sup> Frisani D., Zamboni A., Monteiro C. – *Evaluation Study on the application of Directive 2011/82/EU facilitating the cross border exchange of information on road safety related traffic offences*. Grimaldi, Milan, 2016.

<sup>24</sup> Ligeti K. – *Mutual recognition of financial penalties in the EU*. *Revue Internationale de Droit Penal*. 2006. 77/145-154.

<sup>25</sup> Klimek L. – *Mutual recognition of judicial decisions in European Criminal Law*. Springer, 2017

<sup>26</sup> Rusu M.I. – *Mutual recognition of financial penalties between EU Member States. Critical observations*. *Aeta Universitate Danubius Iuridica* (7/220-239) 2010.

<sup>27</sup> Potàsh P. – *Traffic Offences from the EU and V4 perspectives*. In Majer et Sitek: *Quality measures for security of the States of the Visegrad Group from an European perspective*. 2011.

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2009/299/JHA, can be also used to obtain financial penalties imposed in respect of CBOs in general way.<sup>28</sup>

This instrument, that consist *rectius* in a judicial cooperation tool, is useful for the police cooperation only if referred to the specific preventive role of the sanction. It can be used only for offences constitutes administrative violations and not in case of road crimes and, while the Directive 2011/82/EU is applicable to traffic violations in the moment of committing before the imposing of penalties<sup>29</sup>, the Framework Decision 2005/214/JHA is applicable only after the definition of the financial penalty and when the offender has not paid (see above 1.2) or not defined it<sup>30</sup>.

## LEGAL ASPECTS

On the field of Police Cooperation, CBE Directive nr. 2011/82/EU, as replaced by Directive nr.2015/413/EU, assumes an important and strategic role, specially referred to its legal basis and consequential legal aspects, considering that is a police instrument involving also other Authorities not linked to law enforcement and, otherwise, is based on article 91(1)(c) TFEU and not on article 87(2) TFEU.

### Article 87(2) TFEU

First adoption of CBE Directive on 25<sup>th</sup> October 2011 was based on the EU competence on the field of police cooperation, under article 87(2) TFEU.

European Parliament and Council, supported by seven MS (including UK and Ireland, able in this case to exercise *opt-out privileges*, and Denmark) stated that Chapter 5 of Title V TFEU, concerning police cooperation, not limit EU legislator to adopt measures falling only under the concept of criminal matters. It is considered that improve road safety is an indirect aim and the principal one is the set-up of an information exchange system, as tool of police cooperation.<sup>31</sup>

At the same time the CBE Directive must be interpreted as a police cooperation instrument able to protect legal interest usually protected by criminal law, such as life, physical and mental health, including road safety, irrespective of the administrative or criminal law nature of the offences in question.

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<sup>28</sup> Klimek L. – *Mutual recognition of judicial decisions in European Criminal Law*. Springer, 2017.

<sup>29</sup> Miettinen S. - *Criminal law and Policy in EU*. Rotledge, Oxon, 2013.

<sup>30</sup> Klimek L. – *Mutual recognition of judicial decisions in European Criminal Law*. Springer, 2017.

<sup>31</sup> Vavoula N. – *Exchanging information on road traffic offences: a measure of Police Cooperation or Transport Policy?* New Journal of Criminal Law, Vol.7, Issue 1, 2016.

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Article 87 (2) TFEU, as argued also by the Advocate General during the discussion of the case in front of the ECJ (Press release nr. 69/14, 2014):

- not preclude the possibility that police cooperation may be established between Authorities not able to apply criminal law in MS;
- road traffic offences, related to road safety, listed in CBE Directive have a punitive and deterrent nature (see 1.2 above);
- police cooperation in criminal matters may deal with the punishment of road traffic offences, irrespective of their administrative or criminal law nature.

### **Article 91(1)(c) TFEU**

Commission argued that article 87(2) TFEU could be the legal basis only for measures specifically related to the prevention and/or detection of criminal offences.

Traffic offences have different nature and different classification in each MS and it is not clear if they are administrative violations or crimes, depending by each MS national legislation.<sup>32</sup>

In CBE Directive must be adopted a restrictive interpretation because the content of the Directive is clearly related to road safety and not to harmonize measures in relation to road or traffic crimes.<sup>33</sup>

From this point of view, reference to article 87(2) TFEU is not correct because the aim of the CBE Directive is the Transport Policy and not the police cooperation or law enforcement.

### **European Court of Justice Decision nr. (ECJ)43/12 on date 6<sup>th</sup> May 2012**

The European Court of Justice discussed the case and on 6<sup>th</sup> May 2012 made its decision ECJ 43/12. ECJ states that the main or predominant aim of the CBE Directive is to improve road safety that and setting up a system for the cross-border exchange of information on road safety related traffic offences is a clear measure to improve transport safety<sup>34</sup>.

The Court affirms that cooperation between Police and other Law Enforcement Authorities is still limited to the prevention, detection and investigation of criminal offences, but the article 87(2) TFEU must be interpreted in the light of the general aims of EU JHA law, as articulated particularly in article 67 TFEU, which include ensuring a high level of security through coordination and cooperation between Police and other Authorities as well as criminal

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<sup>32</sup> Vavoula N. – *Exchanging information on road traffic offences: a measure of Police Cooperation or Transport Policy?* New Journal of Criminal Law, Vol.7, Issue 1, 2016.

<sup>33</sup> Townsend E. – *Briefing on the CBE Directive*. ETSC Paper, Bruxelles, 2014.

<sup>34</sup> Townsend E. - *EU Cross Border Directive*. ETSC Paper, Bruxelles, March 2015.

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law measures<sup>35</sup>. Because of this the CBE Directive is not directly linked to the objectives of police cooperation, differently covered by article 87(2) TFEU<sup>36</sup>.

Due to the importance of the pursuit of the aims of CBE Directive 2011/82, the Court decided that the annulment of the Directive without maintaining its effects could have negative consequences for EU Transport Policy and stated the effects of that Directive should be maintained until the entry into force, within a reasonable period of time of a new Directive based on the correct legal basis (specifically the transport safety, covered by article 91(1)(c) TFEU).

## CONCLUSIONS

Police cooperation in Cross Border Enforcement of traffic offences has its most useful instrument in CBE Directive nr. 2011/82/EU, as replaced by Directive nr.2015/413/EU. The European Court of Justice on 6<sup>th</sup> May 2012, with its decision ECJ 43/12, stated that the legal basis of CBE Directive is article 91(1)(c) TFEU on transport safety and not article 87(2) TFEU on police cooperation or law enforcement. CBE Directive refers to the pursuit of traffic offences committed by drivers of a car which is registered in an EU MS different than the one where they were detected<sup>37</sup>. The force point of the new approach is that ensures expeditious, secure and confidential exchange of vehicle registration data without generating unnecessary administrative burden and the system is effective since it has had a positive impact on the cross-border enforcement of sanctions. CBE Directive gives a real effort in terms of decreasing of road fatalities and increase of respect of traffic rules by non-residents in EU MS. CBE Directive has also a fundamental role referred to its legal aspects, considering that is one of the first EU measures which have a criminal law and police cooperation connotation, adopted under a legal basis not directly related to the field of criminal law. The establishment of an information exchange system with the scope of improvement of road dropped the requirement of existing harmonising rules in that policy for the adoption of criminal law instruments<sup>38</sup>. The Directive demonstrates that police cooperation is a fundamental element for the law enforcement into EU and ECJ stated that to obtain results in this specific field is possible to use also different legal

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<sup>35</sup> Vavoula N. – *Exchanging information on road traffic offences: a measure of Police Cooperation or Transport Policy?* New Journal of Criminal Law, Vol.7, Issue 1, 2016

<sup>36</sup> Townsend E. – *Follow up needed on EU Cross Border Enforcement rules.* ETSC Paper, Bruxelles, 2016.

<sup>37</sup> Townsend E. - *EU Cross Border Directive.* ETSC Paper, Bruxelles, March 2015.

<sup>38</sup> Frisani D., Monteiro C., Mayot L. – *Evaluation Study on the application of Directive 2011/82/EU.* MOVE /C4/SER/2014-255/SI2.706133. Bruxelles, 2015.

basis than article 87 TFEU. Using article 91(1)(c) TFEU as legal basis, all MS are obliged from the Directive and there is not the possibility for Ireland (and UK) to *opt-out* as to Denmark to not join. CBE is a specific case of police cooperation instrument as consequence of another decision, adopted in different field, with different legal basis and using different legal instrument.

The CBE Directive's positive impact on road safety can be also more effective with a future improvement of CBE in MS, with the possibility to improve the number of transnational traffic offences covered by the Directive.

To obtain this result is necessary amore effective harmonisation of sanctions, following and developing the idea that the same rule should be valid in each MS having the same punishment and penalty, and avoid differences in the identification as a crime or as administrative violation for the same failure in a different State within the EU.

Harmonisation of sanctions must work together with an effective Cross Border Enforcement to obtain a final result that can show a unique structure with the same responsibility for nationals and foreigners drivers, an identity of sanctions and an identity of procedures. That should be the first step to a common rule on road safety, maybe having an EU Traffic and Road Code, valid for all MS, using instruments of police cooperation and criminal/administrative harmonization to obtain.

## TABLE of ABBREVIATIONS and ACRONYMS

CARE	Cross border European Union Cooperation
CARPOL	Network of Law Enforcement Agencies Contact Points on Stolen Vehicles
CBE	Cross Border Enforcement
CBOs	Cross Border Offences
COM	European Union Commission
Commission	European Union Commission
Council	Council of the European Union
CURIA	Court of justice of the European Union
DGMOVE	General Directorate for Transports of the European Commission
DUI	Driving Under Influence (of alcohol and/or drugs)
ECJ	European Court of Justice
ETSC	European Transport Safety Council

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EU	European Union
EUROSTAT	Statistic Office of the European Union
FD	Framework Decision
JHA	Justice and Home Affairs
LEWP	Law Enforcement Working Party
MS	Member State
OJ	Official Journal of the European Union
TFEU	Treaty on Functioning of the European Union
TISPOL	European Network of Traffic Police
VRD	Vehicles Registration Database
WHO	World Health Organization

## REFERENCES

1. Council Framework Decision 2005/214/JHA of 24<sup>th</sup> February 2005 on the application of the principle of mutual recognition to financial penalties as amended by the Framework decision 2009/299/JHA. Official Journal of the European Union, L 76/16 of 22<sup>nd</sup> March 2005.
2. Council Decision 2008/615/JHA of 23<sup>rd</sup> June 2008 on the stepping up of a cross border cooperation, particularly on combating terrorism and cross border crime. Official Journal of the European Union, L 210/1 of 6<sup>th</sup> August 2008.
3. Directive 2011/82/EU of the European Parliament and the Council of 25<sup>th</sup> October 2011 facilitating the cross border exchange of information on road safety related traffic offences. Official Journal of the European Union, L 288/1 of 5<sup>th</sup> November 2011.
4. European Court of Justice Decision nr. (ECJ)43/12 on date 6<sup>th</sup> May 2012. Official Document nr. 62012CJ0043, 06.05.2012.
5. Directive nr.2015/413/EU, of the European Parliament and the Council of 11<sup>th</sup> March 2015, replacing CBE Directive nr. 2011/82/EU, facilitating the cross border exchange of information on road safety related traffic offences. Official Journal of the European Union, L 68/9 of 13 March 2015.
6. Adminaite D., Jost G., Stpdonk H., Ward H. (2017)- *Ranking EU progression on Road Safety. 11th Road Safety Performance Index Report*. ETSC, Bruxelles. (June 2017).
7. Aldrighetto G., Conte R., Giardini F. (2011) – *Le basi cognitive della contro-aggressione: vendetta, punizione e sanzione*. LABBS. Institute of Cognitive Science and Technologies NRC; 2011.
8. CARE (2016) – *Annual Report on Road Accidents in EU* – European Commission Press, Bruxelles, 2016.
9. Dörr O., Schmalenbach K. (2018) – *The Vienna Convention*. Springer, 2018.
10. Elvik R., Veinsten K. (2005) – *Barrier to the use of Efficiency Assessment Tools in Road Safety Policy* – Workpackage 2 of the European Research Project ROSEBUD TOI Rapport 785/2005. Institute of Transport Economics Oslo (2005).
11. ETSC (2016) *How Traffic Law Enforcement can contribute to safer roads*. ETSC Paper. Bruxelles, 2016.
12. ETSC (2014). *Briefing on the Cross Border Enforcement Directive*. Retrieved July 30, 2018, from <http://etsc.eu/briefing-on-the-cross-border-enforcement-directive/>.

13. European Commission. (2013). *Road Safety: Clamp-down on traffic offences committed abroad-FAQ*. Retrieved July 27, 2018, from [http://ec.europa.eu/transport/newsletters/2013/1108/articles/cbe\\_memo\\_en.htm](http://ec.europa.eu/transport/newsletters/2013/1108/articles/cbe_memo_en.htm).
14. European Commission. (2008). *Proposal for a Directive of the European Parliament and of the Council facilitating cross-border enforcement in the field of road safety COM(2008) 151*. EU. Bruxelles, 19 March 2008.
15. Frisani D., Zamboni A., Monteiro C. (2016) – *Evaluation Study on the application of Directive 2011/82/EU facilitating the cross border exchange of information on road safety related traffic offences*. Grimaldi, Milan, 2016.
16. Giannini A.M., Lucidi F. (2007) – *The young driver's paradox*. Sei Editrice, 2007.
17. Gössel B. (2015) – *Cross border traffic police enforcement: a descriptive and explanatory cross-sectional study on the role of EU's fight against the "Three main killers" on EU roads*. University of Twente. June 2015.
18. Italian Traffic Police (2017) – Database on road accidents referred to year 2017. Retrieved July 27, 2018, from [www.poliziadistato.it](http://www.poliziadistato.it).
19. Klimek L. (2017) – *Mutual recognition of judicial decisions in European Criminal Law*. Springer, 2017.
20. Ligeti K. (2006) – *Mutual recognition of financial penalties in the EU*. *Revue Internationale de Droit Penal*. 77/145-154.
21. Miettinen S. (2013)- *Criminal law and Policy in EU*. Rotledge, Oxon, 2013.
22. Potàsh P. (2011) – *Traffic Offences from the EU and V4 perspectives*. In Majer et Sitek: *Quality measures for security of the States of the Visegrad Group from an European perspective*.
23. Rusu M.I. (2010) – *Mutual recognition of financial penalties between EU Member States. Critical observations*. *Aeta Universitate Danubius Iuridica* (7/220-239).
24. TISPOL (2017) – *TISPOL Annual Report 2017*. TISPOL Paper. Manchester (UK), 2017.
25. Townsend E. (2014) – *Briefing on the CBE Directive*. ETSC Paper, Bruxelles, 2014.
26. Townsend E. (2014) – *Compaigners and Traffic Police for revision of Cross Border Enforcement rules*. ETSC Paper, Bruxelles, 2014.
27. Townsend E. (2015) - *EU Cross Border Directive*. ETSC Paper, Bruxelles, March 2015.
28. Townsend E. (2016) – *Follow up needed on EU Cross Border Enforcement rules*. ETSC Paper, Bruxelles, 2016.
29. Townsend E. (2017) – *Cross Border follow up of traffic offences not being used at full potential*. ETSC Paper, Bruxelles, 2017.
30. Townsend E. (2018) - *EU Strategic Plans on Road Safety*. ETSC Paper, Bruxelles, 2018.
31. Vavoula N. (2016) – *Exchanging information on road traffic offences: a measure of Police Cooperation or Transport Policy?* *New Journal of Criminal Law*, Vol.7, Issue 1, 2016
32. Wegman F., Oppe S. (2010)– *Benchmarking Road Safety Performances of Countries*. *Safety Science* 48. SWOV Institute for Road Safety Research. Leidshendam – The Netherlands. (2010).

### Websites.

[www.ec.europa.eu](http://www.ec.europa.eu)  
[www.poliziadistato.it](http://www.poliziadistato.it)  
[www.interno.it](http://www.interno.it)  
[www.etsc.eu](http://www.etsc.eu)  
[www.tispol.org](http://www.tispol.org)  
[www.who.int](http://www.who.int)  
[www.dekra.it](http://www.dekra.it)  
[www.curia.europa.eu](http://www.curia.europa.eu)  
[www.eur-lex.europa.eu](http://www.eur-lex.europa.eu)  
[www.opac.oireachtas.ie](http://www.opac.oireachtas.ie)  
[www.policija.lvr.lt](http://www.policija.lvr.lt)

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[www.yadda.icm.edu.pl](http://www.yadda.icm.edu.pl)  
[www.irishstatuebook.ie](http://www.irishstatuebook.ie)  
[www.abertis.com](http://www.abertis.com)  
[www.gov.uk](http://www.gov.uk)  
[www.eerstekamer.nl](http://www.eerstekamer.nl)

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