

Cross-border exchange of information on road safety related traffic offences

2008/0062(COD) - 21/03/2011 - Commission communication on Council's position

Firstly, it has to be underlined that, while the Commission accepted most of the EP amendments in first reading since they were strengthening its initial proposal, the Council did not include any of them in its position.

Regarding the substance of the Council's position, in general the text will facilitate the cross-border exchange of information on road safety traffic offences and can meet the Commission's main objectives in terms of ensuring a high level of protection for all road users in the EU. The adopted text contributes to the fulfilment of the new policy orientations on road safety in the EU. The adopted text is expected to have a strong deterrent effect, by encouraging all drivers to respect traffic law.

The second main objective followed by the Commission in its proposal is related to the follow-up given to the identification of the offender, once the information is available. This objective appears only partly met in the Council's position at first reading and the Commission believes that there is room for strengthening the text on this aspect, building upon the relevant EP amendments made in first reading.

With regard to the choice of the legal basis, the Commission considered that from a legal and institutional perspective the "police cooperation" legal basis (Article 87 paragraph 2) does not constitute the appropriate legal basis for this Directive (even if there was unanimity on this legal basis). Against this background, the Commission entered a statement to the Council minutes reserving its right to use all legal means at its disposal. The Commission also noted that there was unanimity in the Council on the "police cooperation" legal basis.

The Commission considers that the proposed Directive has a clear road safety objective and falls therefore within the scope of Article 91 TFEU. In addition, the proposed Directive does not have any impact on the national classification of the relevant offences.

Besides, under Article 87 (2), three Member States enjoy a derogative regime on police cooperation ("opt-in" for the United Kingdom and Ireland and "opt-out" for Denmark), which implies that potentially, three Member States would not be covered by the proposed Directive.

In addition, the Commission considers from a legal and institutional perspective that Article 87, paragraph 2, TFEU does not constitute the appropriate legal basis and therefore reserves its right to use all legal means at its disposal.

For the second reading, possible compromises should be explored in order to find appropriate solutions allowing to cover both administrative and criminal offences.