

## Annex 3 Questionnaire Models

- **Questionnaire n°1 for Public Stakeholders**

**Subject: EVALUATION STUDY ON THE APPLICATION OF THE DIRECTIVE 2011/82/EU FACILITATING THE CROSS-BORDER EXCHANGE OF INFORMATION ON ROAD SAFETY RELATED TRAFFIC OFFENCES (Contract n° MOVE/C4/2014-255). Questionnaire No. 1**

### Introduction

The European Commission has mandated Grimaldi in order to carry out an evaluation of Directive 2011/82/EU facilitating the cross-border exchange of information on road safety related traffic offences (“**CBE Directive** or **Directive**”), currently replaced by Directive 2015/413 (“EVALUATION STUDY ON THE APPLICATION OF DIRECTIVE 2011/82/EU FACILITATING THE CROSS-BORDER EXCHANGE OF INFORMATION ON ROAD SAFETY RELATED”) (“the **Study**”).

It will be useful to recall that such Directive offers an automated tool for enforcement authorities in the Member State where the offence was committed to pursue and fine the drivers of cars registered in other EU Member States when they commit traffic offences.

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 and therefore it is important to understand how the mechanism put in place by the Directive interacts with such other mechanisms. In May 2014, the European Court of Justice ruled that the legal basis of the Directive on Cross-Border Exchange of Information related to road safety (which came into force in November 2013) was incorrect. The European Court of Justice found that the measures proposed in the Directive do not concern ‘prevention of crime’ as defined under the police co-operation rules, but rather road safety, which is a transport issue. However, given the importance of the law for road safety, the ECJ said the current rules will stay in place while a new proposal is agreed. The Court has granted a one-year transition period, meaning the rules have remained in effect until May 2015. Following the ruling a new Directive 2015/413 was adopted in March 2015 with a legal basis under the EU transport policy.

# Evaluation study on the application of the CBE Directive



EU Member States had to transpose the new legislation into their national law by May 2015. Three countries, UK, Ireland and Denmark have a later transposition deadline of May 2017.

The objective of this consultation is to receive the views of stakeholders concerned by the topic of this Study.

The final version of the evaluation may be potentially published on the Internet, including the views of the stakeholders in an anonymous form.

As far as this consultation implies the collection and further processing of personal data, Regulation (EC) 45/2001, of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Union institutions and bodies and on the free movement of such data, is applicable.

In this context Grimaldi is considered to be Processor of the data collected and commits to comply with EU and national legislation on data protection.

This Questionnaire is addressed to your organization in its quality of public authority of a Member State of the European Union involved in the enforcement of sanctions for road traffic offences and notably in the cross-border enforcement for the above sanctions.

Please provide your reply in writing by 3 September 2015 sending an email to the following email address: [dfrisani@grimaldilex.com](mailto:dfrisani@grimaldilex.com). Please note that this deadline is tentative and that it can be extended until 30 September 2015.

Should it be more convenient for you, we can also schedule a phone interview in August or in September 2015. Please send an email specifying your preference for an oral interview and your availabilities.

In case you need any additional information about this evaluation, please do not hesitate to contact Grimaldi Studio Legale directly by addressing an email to the following address: [dfrisani@grimaldilex.com](mailto:dfrisani@grimaldilex.com).

## **The objective of this questionnaire**

# Evaluation study on the application of the CBE Directive



This Questionnaire is aimed at gathering the opinion of your organization on the impacts of the Directive on road safety and on the awareness of EU citizens on the necessity to comply with road traffic rules.

This Questionnaire is divided in sections.

Section 1 concerns the impacts of the Directive.

Section 2 concerns the functioning of EUCARIS.

Section 3 concerns the use of automatic checking equipment in Member States.

Section 4 concerns the functioning of procedures for the enforcement of road traffic offences in Member States.

Section 5 concerns the future perspectives for the cross-border enforcement of sanctions for road traffic offences.

You will be asked to reply to open-ended as well as to closed-ended questions. Please cross the appropriate box or provide your answer where applicable.

Please note that you are not required to answer to all questions included in this Questionnaire but only to the questions that:

- either concern aspects of the cross-border enforcement of sanctions for road traffic offences that fall within the scope of the competences of your organization;
- or require you to provide data/information which are in possession of your organization;
- or concern aspects that may be familiar to you because are related to your position in your organization and involvement with road traffic and road safety.

## ***Section 1 Impact of the Directive***

The questions included in this Section concern the impacts of the Directive, *rectius* of the national measures transposing the Directive, on road safety and on the awareness of drivers of the road traffic rules in force in the Member States of the EU. You are asked to provide estimates or figures on various issues that can be qualified as possible impacts of the Directive. The impacts of the Directive will be measured as follows.

Firstly, we will try to assess, based also on your replies, whether there has been a decrease in fatalities or in road traffic offences on EU roads since 2013.

Secondly, we will try to assess whether and to what extent the above alleged decreases (of the number of fatalities and of the number of road traffic offences) are due to a decrease of the number of offences committed by non-resident drivers.

# Evaluation study on the application of the CBE Directive

Thirdly, we will aim at understanding whether the level of awareness of EU drivers on issues concerning road safety has increased since 2013 and at identifying the causes of such an alleged increase.

## Questionnaire 1 – Section 1

Q.1.1 What are the impacts of the implementation of the CBE Directive on road fatalities and accidents in your country? Have they decreased?

Yes

No

I do not know

Q.1.2 What are the figures/estimates on the development of the number of fatalities/accidents caused by non-resident drivers in your country?

Please provide them in the following line or as Annex to your reply to this Questionnaire

[PLEASE STATE OR ATTACH]

I don't know

Q.1.3 Would you suggest that there has been an increase/decrease in the number of fatalities/accidents caused by non-resident drivers in your country?

Yes, there has been an increase

Yes, there has been a decrease

No, there has been no change in the number of fatalities/accidents caused by non-resident drivers in my country

I do not know

Q.1.4 Are there any important/significant impacts of the implementation of the CBE Directive which are not linked to road safety in your country? I.e. has cooperation between the police of your Member States and the one of other Member States improved also with respect to offences and crimes other than the ones covered by the CBE Directives since 2013?

Yes

No

I do not know

Q.1.5 What are the problems with the implementation of the CBE Directive in your country?

[PLEASE STATE]

To my knowledge there are no problems with the implementation of the Directive

I do not know

Q.1.6 What are the factors that prevent you/authorities of your Member States from effectively exchanging data on non-resident traffic offenders and from enforcing sanctions in other Member States?

[PLEASE STATE]

To my knowledge there are no such factors

I do not know

Q.1.7 How are EU citizens/road users informed about applicable traffic rules and measures implementing the CBE Directive in your country? How much are road users interested in such information (e.g. number of visits of relevant websites in 2013 - 2015)?

[PLEASE STATE]

I do not know

Q.1.8 Based on your experience are non-resident road traffic offenders aware that they are violating the national road traffic rules of your Member State?

Yes

No

I do not know [\_\_\_]

Q.1.9 If applicable, what are the figures or estimates of the costs saved since 2013 due to a reduction of the number of accidents on EU roads or in your MS' roads? What are the estimates or figures related to the part of the above reduction of costs which is related to the decrease of the number of road traffic offences covered by the CBE Directive? Please provide them in the following line or as Annex to your reply to this Questionnaire

[PLEASE STATE OR ATTACH]

Not applicable [\_\_\_]

I do not know [\_\_\_]

Q.1.10 What aspects of the mechanisms put in place by the Directive are not necessary and generate unnecessary administrative burden/or make the entire procedure longer than necessary?

[PLEASE STATE]

I do not know [\_\_\_]

## **Section 2 EUCARIS**

The questions included in this section of the Questionnaire are aimed at assessing the functioning of EUCARIS.

### **Questionnaire 1 – Section 2**

Q.1.11 How many offences as defined in Article 2 of the CBE Directive are detected in 2013 – 2015 in your country? Please provide them in the following line or as Annex to your reply to this Questionnaire

[PLEASE STATE OR ATTACH]

I do not know [\_\_\_]

Q.1.12 How many of the above offences are detected automatically/without stopping the vehicle of the offender? Please provide them in the following line or as Annex to your reply to this Questionnaire

[PLEASE STATE OR ATTACH]

I do not know [\_\_\_]

Q.1.13 How many of the above offences which are detected automatically/without stopping the vehicle of the offender are committed by vehicles registered in another MS?

Please provide them in the following line or as Annex to your reply to this Questionnaire

[PLEASE STATE OR ATTACH]

I do not know [\_\_\_]

Q.1.14 How many road safety related traffic offences detected automatically have been/are followed by the searches via EUCARIS in 2013/2015? Please provide them in the following line or as Annex to your reply to this Questionnaire

[PLEASE STATE OR ATTACH]

I do not know [\_\_\_]

Q.1.15 To what extent does EUCARIS facilitate cross-border exchange of VRD between Member States?

[PLEASE STATE]

I do not know [\_\_\_]

Q.1.16 To what extent does EUCARIS facilitate the reporting by the Member States to the Commission?

[PLEASE STATE]

I do not know [\_\_\_]

Q.1.17 What are the problems with the functioning of EUCARIS? Do you think that EUCARIS should be replaced by another system which would integrate also the exchange of data on drivers (e.g. RESPER)?

[PLEASE STATE]

I do not know [\_\_\_]

Q.1.18 What are on a yearly basis the administrative costs related to the management of the software applications necessary to carry out the searches under the CBE Directive regime in your country (including the payments to EUCARIS Secretariat)? Please provide them in the following line or as Annex to your reply to this Questionnaire

[PLEASE STATE OR ATTACH]

I do not know [\_\_\_]

Q.1.19 Do you consider these costs excessive?

Yes [\_\_\_]

No [\_\_\_]

- Would you argue that the costs of the current system are higher than the ones of the system under the Prum decision?

Yes [\_\_\_]

No [\_\_\_]

I do not know [\_\_\_]

What are the figures on the costs of such system on a yearly basis? Please provide them in the following lines or as Annex to your reply to this Questionnaire

[PLEASE STATE OR ATTACH]

I do not know [\_\_\_]

### ***Section 3 Automatic checking equipment***

# Evaluation study on the application of the CBE Directive

Section 3 of this Questionnaire aims at understanding whether the lack of common standards for automatic checking equipment across the EU affects negatively the cross-border enforcement of sanctions for road traffic offences and at identifying best practices in the automated enforcement of road traffic rules.

## Questionnaire 1 – Section 3

Q.1.20 What are the possible impacts that the development of comparable methods, practices and minimum standards for automatic checking equipment can have on the implementation of the CBE Directive and subsequent enforcement of sanctions?

[PLEASE STATE\_]

I do not know [\_\_\_]

Q.1.21 What are the main legal and practical problems caused by the existence of different standards for automatic checking equipment in the Member States of the EU?

[PLEASE STATE]

I do not know [\_\_\_]

Q.1.22 How would you rate the automatic checking equipment used in your Member State?

[PLEASE STATE]

I do not know [\_\_\_]

Q.1.23 Are there Member States that use more effective automatic checking equipment than others? If yes, please list them and explain why you consider their checking equipment more effective

Yes [\_\_\_]

[PLEASE STATE]

No [\_\_\_]

I do not know [\_\_\_]

Q.1.24 Are there national authorities of other Member States which refuse access to their VRD invoking reasons related to the use of particular types of checking equipment for detecting road traffic

offences? If yes, please list them and provide examples where possible.

Yes [\_\_\_]

[PLEASE STATE]

No [\_\_\_]

I do not know [\_\_\_]

Q.1.25 Do you think that lack of common standards for automatic checking equipment prevents an effective cooperation between authorities of different Member States? If yes please explain why.

Yes [\_\_\_]

[PLEASE STATE]

No [\_\_\_]

I do not know [\_\_\_]

Q.1.26 Do you (enforcement authorities in your MS) refuse to recognize a sanction imposed by another Member States if the offence has been detected using a specific automatic checking equipment not accepted in your country?

Yes [\_\_\_]

No [\_\_\_]

I do not know [\_\_\_]

#### ***Section 4 Enforcement procedures***

The questions included in this section aim at understanding how the cross-border enforcement of sanctions for road traffic offences concretely works and at identifying problems that need/should be addressed by EU legislation or by other measures such as international agreements.

Questionnaire 1 – Section 4

Q.1.27 What are the most recurrent road traffic offences in your Member State other than the ones covered by the CBE Directive? In your opinion, what other road safety related traffic offences should be added to the scope of the CBE Directive?

[PLEASE STATE]

I do not know [\_\_\_]

Q.1.28 What are the figures/estimates on the number of offences not covered by the CBE Directive committed by non-resident drivers in your Member State in the year 2013-2015? Please provide them in the following lines or as Annex to your reply to this Questionnaire

[PLEASE STATE OR ATTACH]

I do not know [\_\_\_]

Q.1.29 What legal instruments do you currently apply to enforce sanctions for traffic offences committed by foreign offenders (e.g. bilateral, multilateral agreements)?

[PLEASE STATE]

I do not know [\_\_\_]

Are they efficient?

Yes [\_\_\_]

No [\_\_\_]

I do not know [\_\_\_]

- What are figures on the number of sanctions for offences not covered by the CBE Directive and committed by non-resident drivers which have been enforced? Please provide them in the following line or as Annex to your reply to this Questionnaire

[PLEASE STATE OR ATTACH]

I do not know [\_\_\_]

Q.1.30 Which problems, if any, do you face when you try to enforce sanctions in other Member States for road traffic offences not covered by the Directive?

[PLEASE STATE]

I do not know [\_\_\_]

Q.1.31 How do you apply Council Framework Decision 2005/214/JHA and EU-Convention on Mutual Assistance in Criminal Matters of 2000 (MLA Convention) to the enforcement of sanctions for traffic rules?

[PLEASE STATE]

I do not know [\_\_\_]

Q.1.32 Which authority is in charge of transmitting / receiving information on financial penalties? What is the role of this authority (transmitting the request to other relevant bodies? Conduct enforcement themselves?)

[PLEASE STATE]

I do not know [\_\_\_]

Q.1.33 What is the number of penalty payment refusals? What are the grounds for the refusal?

[PLEASE STATE]

I do not know [\_\_\_]

Q.1.34 What are the consequences of the refusal to pay? Is this enforced in the same way as for purely domestic cases?

[PLEASE STATE]

I do not know [\_\_\_]

Q.1.35 What is the number of enforcement demands from your country to another Member State?

- What share of demands is successful? Please provide figures in the following line or as Annex to your reply to this Questionnaire

[PLEASE STATE OR ATTACH]

I do not know [\_\_\_]

- What are the common reasons for refusal (if any)?

[PLEASE STATE]

I do not know [\_\_\_]

Q.1.36 What is the number of enforcement demands from another Member State to your country?  
Please provide figures in the following line or as Annex to your reply to this Questionnaire

[PLEASE STATE OR ATTACH]

I do not know [\_\_\_]

- What share of demands is successful?

[PLEASE STATE]

I do not know [\_\_\_]

- What are the common reasons for refusal (if any)?

[PLEASE STATE]

I do not know [\_\_\_]

Q.1.37 Is there a common reference table for the enforcement of road traffic offences? If so on which criteria is it based (type of offence, the maximum penalty)? If yes please provide it and attach to your reply to this Questionnaire.

Yes[\_\_\_]

No [\_\_\_]

I do not know [\_\_\_]

Q.1.38 How many cases there are where the refusal to pay a financial penalty has been upheld by a national court? Please provide figures, where applicable, in the following line or as Annex to your reply to this Questionnaire

[PLEASE STATE OR ATTACH]]

I do not know [\_\_\_]

- Have these refusals been upheld on grounds of differences in the definition of road traffic rules?

Yes [\_\_\_]

No [\_\_\_]

I do not know [\_\_\_]

Q.1.39 Based on your experience are there any other forms of cooperation among Member States in the area of enforcement of road traffic offences which are efficient, i.e. that are rapid and ensure a high rate of successful enforcement of sanctions committed by non-resident drivers? If the answer is positive please identify such forms.

Yes [\_\_\_], [PLEASE STATE]

No [\_\_\_]

I do not know [\_\_\_]

Q.1.40 What bilateral and/or multilateral agreements concerning the enforcement of sanctions for road traffic offences in other Member States of the EU has your country concluded?

[PLEASE STATE]

I do not know [\_\_\_]

Q.1.41 Would you argue that cooperation under such agreements works smoothly? I.e. would you argue that mechanisms put in place by such agreements allow you/the authorities of your State to enforce a substantial number of sanctions in other MSs in reasonable delays?

Yes [\_\_\_]

No [\_\_\_]

I do not know [\_\_\_]

Q.1.42 What is your estimate of the costs on a yearly basis of the follow-up of the exchange of information pursuant to the CBE Directive? Please provide figures, where applicable, in the following line or as Annex to your reply to this Questionnaire

[PLEASE STATE OR ATTACH]

I do not know [\_\_\_]

- If you cannot provide estimates of the costs, can you provide estimates of the minimum length of such procedures?

[PLEASE STATE]

I do not know [\_\_\_]

Q.1.43 What is the estimate of the revenues generated on a yearly basis by the enforcement of sanctions for traffic offences covered by the Directive? What are the figures on the percentage increase of the above revenues since 2013? Please provide figures, where applicable, in the following line or as Annex to your reply to this Questionnaire

[PLEASE STATE]

I do not know [\_\_\_]

1.44 Assuming that the MS of the offence does not send the information letter in the language of the vehicle registration document or in one of the official languages of your Member State, what are the

legal implications? Is the sanction considered as void? Do you think that the CBE Directive should have included rules concerning such situations?

[PLEASE STATE]

I do not know [\_\_\_]

1.45 What happens in your Member State if another Member State annuls the sanctions that your authorities have imposed on foreign drivers? Do you think that the CBE Directive should have included rules concerning such situations?

[PLEASE STATE]

I do not know [\_\_\_]

### ***Section 5 Future perspectives for the cross-border enforcement of sanctions for road traffic offences***

The questions included in this section aim at understanding if new legislative action needs to be taken at EU level and, assuming that the answer is positive, what needs/ should be done at EU level.

#### **Questionnaire 1 – Section 5**

Q.1.46 Could you suggest ways to improve the enforcement of sanctions for the road traffic offences covered by the Directive? If yes, could you provide examples of more successful enforcement mechanisms/mechanisms for the exchange of information?

[PLEASE STATE]

I do not know [\_\_\_]

Q.1.47 What follow-up measures regarding the enforcement of sanctions do you consider as crucial to improve the application of the CBE Directive? Are there emerging types of offences which did not exist during the introduction of the CBE Directive?

[PLEASE STATE]

I do not know [\_\_\_]

Q.1.48 What are the possible alternatives to the vehicle registration data exchange under the CBE Directive?

[PLEASE STATE]

I do not know [\_\_\_]

Q.1.49 What are other road traffic offences than the ones covered by the Directive which impact road safety and are more likely to be committed by non-resident drivers?

[PLEASE STATE]

I do not know [\_\_\_]

- Would you argue that the choice of the EU legislator to not cover such further road traffic offences was justified/not justified?

Yes, it was justified [\_\_\_]

No, it was not justified [\_\_\_]

I do not know [\_\_\_]

Q.1.50 Do you think that in order to improve the cross border enforcement of sanctions for road traffic offences it is necessary to impose on Member States obligations that go beyond the exchange of the information and address specifically the enforcement procedures and cooperation between judicial authorities?

Yes [\_\_\_]

No [\_\_\_]

I do not know [\_\_\_]

Q.1.51 Do you think that the Directive should contain more precise rules on information letter for those MSs which require a proof/evidence to identify the driver?

Yes [\_\_\_]

No

I do not know

Q.1.52 Should MSs be allowed, according to Article 4 of the CBE Directive, to use also other databases (not only vehicle database but also driver database)?

Yes

No

I do not know

Q.1.53 Should MSs be obliged to provide contact details of concrete persons who are responsible for the activities as envisaged in Article 4(2) and Article 8 of the Directive?

Yes

No

I do not know

Q.1.54 Is the scope of the reporting obligations of MSs according to Article 6 of the CBE Directive considered as satisfactory as regards the assessment of the efficiency (and effectiveness) of the entire Directive? Should reporting obligations be further specified?

Yes

No

I do not know

- **Questionnaire n°2 for Private Stakeholders**

**Subject: EVALUATION STUDY ON THE APPLICATION OF THE DIRECTIVE 2011/82/EU FACILITATING THE CROSS-BORDER EXCHANGE OF INFORMATION ON ROAD SAFETY RELATED TRAFFIC OFFENCES (Contract n° MOVE/C4/2014-255). Questionnaire No. 2**

#### **Introduction**

The European Commission has mandated Grimaldi in order to carry out an evaluation of Directive 2011/82/EU facilitating the cross-border exchange of information on road safety related traffic offences ("**CBE Directive** or **Directive**"), currently replaced by Directive 2015/413 ("EVALUATION STUDY ON THE APPLICATION OF DIRECTIVE 2011/82/EU FACILITATING THE CROSS-BORDER EXCHANGE OF INFORMATION ON ROAD SAFETY RELATED") ("the **Study**").

It will be useful to recall that such Directive offers an automated tool for enforcement authorities in the Member State where the offence was committed to pursue and fine the drivers of cars registered in other EU Member States when they commit traffic offences.

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 and therefore it is

# Evaluation study on the application of the CBE Directive



important to understand how the mechanism put in place by the Directive interacts with such other mechanisms.

In May 2014, the European Court of Justice ruled that the legal basis of the Directive on Cross-Border Exchange of Information related to road safety (which came into force in November 2013) was incorrect. The European Court of Justice found that the measures proposed in the Directive do not concern 'prevention of crime' as defined under the police co-operation rules, but rather road safety, which is a transport issue. However, given the importance of the law for road safety, the ECJ said the current rules will stay in place while a new proposal is agreed. The Court has granted a one-year transition period, meaning the rules have remained in effect until May 2015. Following the ruling a new Directive 2015/413 was adopted in March 2015 with a legal basis under the EU transport policy. EU Member States had to transpose the new legislation into their national law by May 2015. Three countries, UK, Ireland and Denmark have a later transposition deadline of May 2017.

The objective of this consultation is to receive the views of stakeholders concerned by the topic of this Study.

The final version of the evaluation may be potentially published on the Internet, including the views of the stakeholders in an anonymised form.

As far as this consultation implies the collection and further processing of personal data, Regulation (EC) 45/2001, of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Union institutions and bodies and on the free movement of such data, is applicable.

In this context Grimaldi is considered to be Processor of the data collected and commits to comply with EU and national legislation on data protection.

This Questionnaire is addressed to stakeholders such as your organization having an interest and first-hand experience of cross-border enforcement of sanctions for road traffic offences and more in general of road safety issues.

Please provide your reply in writing by 3 September 2015 sending an email to the following email address: [dfrisani@grimaldilex.com](mailto:dfrisani@grimaldilex.com). Please note that this deadline is tentative and that it can be extended until 30 September 2015.

# Evaluation study on the application of the CBE Directive



Should it be more convenient for you, we can also schedule a phone interview in August or in September 2015. Please send an email specifying your preference for an oral interview and your availabilities.

In case you need any additional information about this final evaluation, please do not hesitate to contact Grimaldi Studio Legale directly by addressing an email to the following address: [dfrisani@grimaldilex.com](mailto:dfrisani@grimaldilex.com).

## The objective of this questionnaire

This Questionnaire is aimed at gathering your opinion on the impacts of the Directive on road safety and on the awareness of EU citizens on the necessity to comply with road traffic rules.

This Questionnaire is divided in sections.

Section 1 concerns the impacts of the Directive.

Section 2 concerns the functioning of EUCARIS.

Section 3 concerns the use of automatic checking equipment in Member States.

Section 4 concerns the functioning of procedures for the enforcement of road traffic offences in Member States.

Section 5 concerns the future perspectives for the cross-border enforcement of sanctions for road traffic offences.

You will be asked to reply to open-ended as well as to closed-ended questions. Please cross the appropriate box or provide your answer, where applicable.

Please note that you are not required to answer to all questions included in this Questionnaire but only to the questions that:

- either concern aspects of the cross-border enforcement of sanctions for road traffic offences that fall within the scope of the competences of your organization;
- or require you to provide data/information which are in possession of your organization;
- or concern aspects that may be familiar to you because are related to your position in your organization and involvement with road traffic and road safety.

## Section 1 - Impact of the Directive

The questions included in this Section concern the impacts of the Directive, *rectius* of the national measures transposing the Directive, on road safety and on the awareness of drivers of the road traffic rules in force in EU Member States. Where available and applicable, please provide figures or

estimates of figures. Where figures are not available/not necessary, please provide your opinion on the impacts of the Directive.

The impacts of the Directive will be measured as follows.

Firstly, we will try to assess, based also on your replies, whether there has been a decrease in fatalities or in road traffic offences on EU roads since 2013.

Secondly, we will try to assess whether and to what extent the above alleged decreases (of the number of fatalities and of the number of road traffic offences) are due to a decrease of the number of offences committed by non-resident drivers.

Thirdly, we will aim at understanding whether the level of awareness of EU drivers on issues concerning road safety has increased since 2013 and at identifying the causes of such an alleged increase.

## Questionnaire 2 – Section 1

Q.2.1 What are the impacts of the implementation of the CBE Directive on fatalities and accidents in your country/in the EU?

[PLEASE STATE]

I do not know [\_\_\_].

What do you think are the reasons behind these impacts?

[PLEASE STATE]

I do not know [\_\_\_]

Q.2.2 Would you suggest that there has been an increase/decrease of the number of fatalities/accidents caused by non-resident drivers in your country/in the EU since 2013?

Yes, there has been an increase [\_\_]

Yes, there has been a decrease [\_\_]

No, there has been no change in the number of fatalities/accidents caused by non-resident drivers in my country [\_\_]

I do not know [\_\_]

Q.2.3 Are there any important/significant impacts of the implementation of the CBE Directive which are not linked to road safety. I.e. has cooperation between the police of your Member States and the ones of other Member States improved also with respect to offences and crimes other than the ones covered by the CBE Directive?

Yes [\_\_]

No [\_\_]

I do not know [\_\_]

Q.2.4 If any, what are the problems with the implementation of the CBE Directive in your country/in the EU?

[PLEASE STATE]

I do not know [\_\_\_]

Q.2.5 What are the factors having a negative impact on the achievement of the main objectives of the CBE Directive, mainly improving road safety?

[PLEASE STATE]

I do not know [\_\_\_]

Q.2.6 What are according to you the factors that still encourage the moral hazard of non-resident drivers?

[PLEASE STATE]

I do not know [\_\_\_]

Q.2.7 Do you think that the mechanisms foreseen by the Directive complement the provisions of other EU legislation? Do you think they have filled a legal gap? If yes please provide reasons for your answer.

Yes, [PLEASE STATE]

No [\_\_\_]

I do not know [\_\_\_]

Q.2.8 How much are road users interested in the information on road traffic rules covered by the Directive in your country/in the EU?

They are very interested [\_\_\_]

They are not interested [\_\_\_]

They are moderately interested [\_\_\_]

I do not know [\_\_\_]

Q.2.9 Can you provide figures on the number of visits of the website of your Member State providing information on the national rules implementing the CBE Directive in 2013-2015? Please provide figures, where applicable, in the following line or as Annex to your reply to this Questionnaire.

Yes [\_\_\_], [PLEASE STATE OR ATTACH]

No [\_\_\_]

Q.2.10 What is the co-operation between NGOs and public authorities in your country/in the EU in providing road users with necessary information on applicable traffic rules and measures implementing the CBE Directive?

[PLEASE STATE]

I do not know [\_\_\_]

Q.2.11 Do you think that drivers are currently more/less aware of road traffic rules in force in Member States where they do not reside?

Yes, they are more aware [\_\_\_]

No, they are not more aware [\_\_\_]

I do not know [\_\_\_]

Q.2.12 According to you, what are the main factors affecting positively the level of compliance with road traffic rules across Member States?

[PLEASE STATE]

I do not know [\_\_\_]

Q.2.13 Do you think that there is a correlation between compliance with road traffic rules and awareness of such rules?

Yes [\_\_\_]

No [\_\_\_]

I do not know [\_\_\_]

Q.2.14 To what extent are the problems related to the implementation of the CBE Directive related to the differences in the way Member States have implemented the Directive?

[PLEASE STATE]

I do not know [\_\_\_]

Do you think that an EU Regulation directly applicable in Member States would have given rise to the same/less/more implementations problems?

Yes [\_\_\_]

No [\_\_\_]

I do not know [\_\_\_]

## **Section 2 - EUCARIS**

The questions included in this section are aimed at assessing the functioning of EUCARIS.

Questionnaire 2 – Section 2

Q.2.15 If any, what are the factors that prevent authorities of your Member State/of EU Member States from effectively exchanging data on non-resident traffic offenders and from enforcing sanctions in other Member States?

[PLEASE STATE]

I do not know [\_\_\_]

Q.2.16 How many offences as defined in Article 2 of the CBE Directive were detected in 2013 – 2015 in your country/in the EU? Please provide figures, where applicable, in the following line or as Annex to your reply to this Questionnaire.

[PLEASE STATE OR ATTACH]

I do not know [\_\_\_]

Q.2.17 How many of the above offences are detected automatically/without stopping the vehicle of the offender? Please provide figures, where applicable, in the following line or as Annex to your reply to this Questionnaire.

[PLEASE STATE OR ATTACH]

I do not know [\_\_\_]

Q.2.18 How many of the above offences which are detected automatically/without stopping the vehicle of the offender are committed by vehicles registered in another MS than the MS

where the offence took place? Please provide figures, where applicable, in the following line or as Annex to your reply to this Questionnaire.

[PLEASE STATE OR ATTACH]

I do not know [\_\_\_]

Q.2.19 What are the estimates or figures concerning the percentage of successful searches via EUCARIS in 2013/2015 in your Member State/in Europe? Please provide figures, where applicable, in the following line or as Annex to your reply to this Questionnaire.

[PLEASE STATE OR ATTACH]

I do not know [\_\_\_]

Q.2.20 Are the vehicle registration data exchanged in your Member State only for the purpose of investigation?

Yes [\_\_\_]

No [\_\_\_]

I do not know [\_\_\_]

Q.2.21 Should the Directive clarify for which purposes vehicle registration data can be exchanged?

Yes [\_\_\_]

No [\_\_\_]

I do not know [\_\_\_]

Q.2.22 Do you think that the mechanism for the exchange of information put in place by the Directive generates fair/excessive costs?

Yes [\_\_\_]

No [\_\_\_]

I do not know [\_\_\_]

If yes do you think that some of such costs could have been avoided?

Yes [\_\_\_]

No [\_\_\_]

I do not know [\_\_\_]

Q.2.23 Does Article 4 (the obligation to only respond to incoming searches and not to actively investigate the offences) comply with the one of the objectives of the CBE Directive, i.e. ensuring "equal treatment of drivers/possible offenders" (Recital 7)?

Yes [\_\_\_]

No [\_\_\_]

I do not know [\_\_\_]

### ***Section 3 - Automatic checking equipment***

Section 3 of this Questionnaire aims at understanding if the lack of common standards for automatic checking equipment affects negatively the cross-border enforcement of sanctions for road traffic offences and at identifying best practices in the automated enforcement of road traffic rules.

#### **Questionnaire 2 – Section 3**

Q.2.24 What are the impacts that the development of comparable methods, practices and minimum standards for automatic checking equipment can have on the implementation of the CBE Directive and subsequent enforcement of sanctions?

[PLEASE STATE]

I do not know [\_\_\_]

Q.2.25 If any, what are the main legal and practical problems caused by the existence of different standards for automatic checking equipment in your country/in the EU?

[PLEASE STATE]

I do not know [\_\_\_]

Q.2.26 Which Member States use the most reliable automatic checking equipment?

[PLEASE STATE]

I do not know [\_\_\_]

Q.2.27 Do you think that the fact that Member States' legislation differ concerning the use of such equipment will affect the functioning of mechanisms for the exchange of information foreseen in the Directive or the enforcement of sanctions imposed in another Member State?

[PLEASE STATE]

I do not know [\_\_\_]

#### ***Section 4 - Enforcement procedures***

The questions included in this section aim at understanding how the cross-border enforcement of sanctions for road traffic offences concretely works and at identifying problems that need/should be addressed by EU legislation or by other measures such as international agreements.

## Questionnaire 2 – Section 4

Q.2.28 What follow-up measures regarding the enforcement of sanctions do you consider as crucial in view of improving the application of the CBE Directive?

[PLEASE STATE]

I do not know [\_\_\_]

Q.2.29 What are possible alternatives to the vehicle registration data exchange under the CBE Directive?

[PLEASE STATE]

I do not know [\_\_\_]

Q.2.30 Do you think that such alternatives ensure/would ensure a rapid enforcement of cross-border enforcement of sanctions for road safety related offences? If yes please provide reasons for your reply.

Yes [\_\_\_]

No [\_\_\_]

I do not know [\_\_\_]

Q.2.31 What are the advantages of the application of the CBE Directive comparing to bilateral and multilateral agreements which usually cover also the enforcement of sanctions?

[PLEASE STATE]

I do not know [\_\_\_]

I.e. Do you think that the mechanism put in place by the CBE Directive works better than other mechanisms normally used for the cross-border enforcement of sanctions?

Yes [\_\_\_]

No [\_\_\_]

I do not know [\_\_\_]

***Section 5 - Future perspectives for the cross- border enforcement of sanctions for road traffic offences***

The questions included in this section aim at understanding if and to what extent the EU needs to adopt new legislation aimed at strengthening the cross-border enforcement of sanctions for road traffic offences.

Questionnaire 2 – Section 5

Q.2.32 Do you foresee any change in the legislation of your Member State/of Member States that could affect the functioning of the exchange of information put in place by the CBE Directive? If the answer is positive could you identify such changes?

Yes [\_\_\_], [PLEASE STATE]

No [\_\_\_]

I do not know [\_\_\_]

Q.2.33 Which road traffic offences are more likely to be committed by non-resident drivers in Europe/your Member State? Do you think that the enforcement of sanctions for such offences is perceived effective/not effective? What reasons motivate such perception?

[PLEASE STATE]

I do not know [\_\_\_]

Q.2.34 Do you think that the CBE Directive should cover only the offences which can be detected automatically/without stopping the vehicle of the offender?

Yes [\_\_\_]

No [\_\_\_]

I do not know [\_\_\_]

If yes, why? Do you think that the Directive should be amended accordingly?

[PLEASE STATE]

I do not know [\_\_\_]

- **Questionnaire n°3 for European Vehicle and Driver Registration Authorities**

**Subject: EVALUATION STUDY ON THE APPLICATION OF THE DIRECTIVE 2011/82/EU FACILITATING THE CROSS-BORDER EXCHANGE OF INFORMATION ON ROAD SAFETY RELATED TRAFFIC OFFENCES (Contract n° MOVE/C4/2014-255). Questionnaire No. 3**

#### **The objective of this questionnaire**

The European Commission has mandated Grimaldi in order to carry out an evaluation of Directive 2011/82/EU facilitating the cross-border exchange of information on road safety related traffic offences ("CBE Directive or Directive"), currently replaced by Directive 2015/413 ("EVALUATION STUDY ON THE APPLICATION OF DIRECTIVE 2011/82/EU FACILITATING THE CROSS-BORDER EXCHANGE OF INFORMATION ON ROAD SAFETY RELATED").

## Evaluation study on the application of the CBE Directive



It will be useful to recall that such Directive offers an automated tool for enforcement authorities in the Member State where the offence was committed to pursue and fine the drivers of cars registered in other EU Member States when they commit traffic offences.

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 and therefore it is important to understand how the mechanism put in place by the Directive interacts with such other mechanisms. In May 2014, the European Court of Justice ruled that the legal basis of the Directive on Cross-Border Exchange of Information related to road safety (which came into force in November 2013), was incorrect. The European Court of Justice found that the measures proposed in the Directive do not concern 'prevention of crime' as defined under the police co-operation rules, but rather road safety, which is a transport issue. However, given the importance of the law for road safety, the ECJ said the current rules will stay in place while a new proposal is agreed. The Court has granted a one-year transition period, meaning the rules have remained in effect until May 2015. Following the ruling a new Directive 2015/413 was adopted in March 2015 with a legal basis under the EU transport policy. EU Member States had to transpose the new legislation into their national law by May 2015. Three countries, UK, Ireland and Denmark have a later transposition deadline of May 2017.

In that regards, the objective of this consultation is to receive the views of stakeholders concerned by the topic of this study.

The final version of the evaluation may be potentially published on the Internet, including the views of the stakeholders in an anonymous form.

Questionnaire No. 3 is addressed to EUCARIS Secretariat and to your organization in its quality of stakeholder with specific expertise on EUCARIS. It is aimed at gathering information on the concrete functioning of such system and includes mostly technical questions. Please note that this Questionnaire includes mostly open-ended questions and that you are not required to reply to all the questions. Should you not be in the position to reply to some questions please cross the box "I do not know" with an X.

As far as this consultation implies the collection and further processing of personal data, Regulation (EC) 45/2001, of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Union institutions and bodies and on the free movement of such data, is applicable. In this context Grimaldi is

## Evaluation study on the application of the CBE Directive



considered to be Processor of the data collected and commits to comply with EU and national legislation on data protection.

Please provide your reply in writing by 3 September 2015 sending an email to the following email address: [dfrisani@grimaldilex.com](mailto:dfrisani@grimaldilex.com). Please note that this deadline is tentative and that it can be extended until 30 September 2015.

Should it be more convenient for you, we can also schedule a phone interview in August or in September. Please send an email specifying your preference for an oral interview and your availabilities.

In case you need any additional information about this final evaluation, please do not hesitate to contact Grimaldi Studio Legale directly by addressing an email to the following address: [dfrisani@grimaldilex.com](mailto:dfrisani@grimaldilex.com).

### Questionnaire 3

Q.3.1 To what extent does EUCARIS facilitate the cross-border exchange of VRD between Member States?

[PLEASE STATE]

I do not know [\_\_\_]

Q.3.2 To what extent does EUCARIS facilitate the reporting by the Member States to the Commission?

[PLEASE STATE]

I do not know [\_\_\_]

Q.3.3 How many MSs are using the European Vehicle and Driving Licence Information System (EUCARIS) software application for exchanging VRD?

[PLEASE STATE]

I do not know [\_\_\_]

Q.3.4 To what extent is the exchange of information of VRD between Member States via EUCARIS in compliance with the security provisions of Article 4(4)?

[PLEASE STATE]

I do not know [\_\_\_]

Q.3.5 What are the security measures implemented in the EUCARIS application to ensure that it meets security needs from Article 4(4)?

[PLEASE STATE]

I do not know [\_\_\_]

Q.3.6 To what extent is the exchange of information of VRD between Member States via EUCARIS in compliance with the data protection provisions of Article 7?

[PLEASE STATE]

I do not know [\_\_\_]

Q.3.7 What is the confidentiality level (public/limited) of the EUCARIS application?

[PLEASE STATE]

I do not know [\_\_\_]

Q.3.8 What are the level of integrity and availability (moderate/critical/strategic) of the IS?

[PLEASE STATE]

I do not know [\_\_\_]

Q.3.9 What are the problems with the functioning of EUCARIS? Do you think that EUCARIS should be replaced by another system which would integrate also the exchange of data on drivers (e.g. RESPER)?

[PLEASE STATE]

I do not know [\_\_\_]

Q.3.10 If any, what are the factors that prevent authorities of your Member States/of EU Member States from effectively exchanging data on non-resident traffic offenders and from enforcing sanctions in other Member States?

[PLEASE STATE]

I do not know [\_\_\_]

Q.3.11 What are on a yearly basis the costs related to the management of EUCARIS interface per MS/in total?

[PLEASE PROVIDE/ATTACH FIGURES]

I do not know [\_\_\_]

Q.3.12 What is your estimation of the costs of measures related to possible follow-up of the CBE Directive, based on your experience with the Salzburg Forum?

[PLEASE PROVIDE/ATTACH FIGURES OR ESTIMATES]

I do not know [\_\_\_]

Q.3.13 What aspects of the implementation of the CBE Directive generate unnecessary administrative burden and how could this be improved?

[PLEASE STATE]

I do not know [\_\_\_]

- **Questionnaire for TISPOL Members**

**Subject: EVALUATION STUDY ON THE APPLICATION OF THE DIRECTIVE 2011/82/EU FACILITATING THE CROSS-BORDER EXCHANGE OF INFORMATION ON ROAD SAFETY RELATED TRAFFIC OFFENCES (Contract n° MOVE/C4/2014-255).  
Questionnaire for TISPOL MEMBERS**

## **Introduction**

The European Commission has mandated Grimaldi in order to carry out an evaluation of Directive 2011/82/EU facilitating the cross-border exchange of information on road safety related traffic offences ("**CBE Directive** or **Directive**"), currently replaced by Directive 2015/413 ("EVALUATION STUDY ON THE APPLICATION OF DIRECTIVE 2011/82/EU FACILITATING THE CROSS-BORDER EXCHANGE OF INFORMATION ON ROAD SAFETY RELATED") ("**the Study**").

It will be useful to recall that such Directive offers an automated tool for enforcement authorities in the Member State where the offence was committed to pursue and fine the drivers of cars registered in other EU Member States when they commit traffic offences.

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 and therefore it is important to understand how the mechanism put in place by the Directive interacts with such other mechanisms.

In May 2014, the European Court of Justice ruled that the legal basis of the Directive on Cross-Border Exchange of Information related to road safety (which came into force in November 2013) was incorrect. The European Court of Justice found that the measures proposed in the Directive do not concern 'prevention of crime' as defined under the police co-operation rules, but rather road safety, which is a transport issue. However, given the importance of the law for road safety, the ECJ said the current rules will stay in place while a new proposal is agreed. The Court has granted a one-year transition period, meaning the rules have remained in effect until May 2015. Following the ruling a new Directive 2015/413 was adopted in March 2015 with a legal basis under the EU transport policy. EU Member States had to transpose the new legislation into their national law by May 2015. Three countries, UK, Ireland and Denmark have a later transposition deadline of May 2017.

# Evaluation study on the application of the CBE Directive



The objective of this consultation is to receive the views of stakeholders concerned by the topic of this Study.

The final version of the evaluation may be potentially published on the Internet, including the views of the stakeholders in an anonymised form.

As far as this consultation implies the collection and further processing of personal data, Regulation (EC) 45/2001, of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Union institutions and bodies and on the free movement of such data, is applicable.

In this context Grimaldi is considered to be Processor of the data collected and commits to comply with EU and national legislation on data protection.

This Questionnaire is addressed to stakeholders such as your organization having an interest and first-hand experience of cross-border enforcement of sanctions for road traffic offences and more in general of road safety issues.

Please provide your reply in writing by 3 September 2015 sending an email to the following email address: [dfrisani@grimaldilex.com](mailto:dfrisani@grimaldilex.com). Please note that this deadline is tentative and that it can be extended until 30 September 2015.

Should it be more convenient for you, we can also schedule a phone interview in August or in September 2015. Please send an email specifying your preference for an oral interview and your availabilities.

In case you need any additional information about this final evaluation, please do not hesitate to contact Grimaldi Studio Legale directly by addressing an email to the following address: [dfrisani@grimaldilex.com](mailto:dfrisani@grimaldilex.com).

## **The objective of this questionnaire**

This Questionnaire is aimed at gathering information and opinions on how the Directive has been implemented in your Member State and on measure in force in your Member State that interact with

# Evaluation study on the application of the CBE Directive

the measures implementing the Directive. Secondly, it aims and at identifying best practices in the area of automatic checking equipment.

Before providing your replies, please answer to the questions below.

A. Do you accept that we share with the Commission the information that you will provide in your reply to this Questionnaire?

Yes []

No []

B. Do you accept that the information that you will provide are included in the report of this study and possibly made available to the public?

Yes []

No []

## *Section 1 - Legal implementation of the Directive / Legal framework for the enforcement operations*

### Questionnaire 1 - Section 1

**Q.1.1** Which measures have been adopted in your Member State in order to implement the Directive? If yes, please provide a short description and/or attach the legal implementing act/s ?

Yes []

[PLEASE STATE]

No []

**Q.1.2** Does your Member State keep a registry of vehicles?

Yes []

No []

Does your Member State keep a registry of drivers?

Yes

No

Q.1.3 Does your Member State require the identification of the driver that committed a traffic offence in order to allow the enforcement of a sanction for a road traffic offence?

Yes

No

Does your Member State allow other Member States to access to the data of the owner of the vehicle in which a road traffic offence was committed despite the fact the latter Member States has not identified the driver of the above vehicle.?

Yes

No

Q.1.4 Does the law of your Member State allow enforcing/imposing a sanction to the owner of a vehicle despite the fact that the vehicle was not stopped when the infraction was detected?

Yes

No

Q.1.5 Which rules apply in your Member State in case an offence is committed in a company vehicle? Is the company liable for offences committed by employees? Does the law oblige the company to provide the name of the driver upon request?

[PLEASE STATE]

Q.1.6 What is/are the limitation period/s of road traffic offences in your Member State (i.e. time limits after which sanctions for traffic offences cannot be enforced)?

[PLEASE STATE]

**Section 2 - Automatic checking equipment**

## Evaluation study on the application of the CBE Directive

Section 2 of this Questionnaire aims at understanding whether the lack of common standards for automatic checking equipment across the EU affects negatively the cross-border enforcement of sanctions for road traffic offences and at identifying best practices in the automated enforcement of road traffic rules.

### Questionnaire 1 - Section 2

**Q.1.20** What are the possible impacts that the development of comparable methods, practices and minimum standards for automatic checking equipment can have on the implementation of the CBE Directive and subsequent enforcement of sanctions?

[PLEASE STATE\_]

I do not know [\_\_\_]

**Q.1.21** What are the main legal and practical problems caused by the existence of different standards for automatic checking equipment in the Member States of the EU?

[PLEASE STATE]

I do not know [\_\_\_]

**Q.1.22** How would you rate the automatic checking equipment used in your Member State?

[PLEASE STATE]

I do not know [\_\_\_]

**Q.1.23** Are there Member States that use more effective automatic checking equipment than others? If yes, please list them and explain why you consider their checking equipment more effective

Yes [\_\_\_]

[PLEASE STATE]

No [\_\_\_]

I do not know [\_\_\_]

**Q.1.24** Are there national authorities of other Member States which refuse access to their VRD invoking reasons related to the use of particular types of checking equipment for detecting road traffic offences? If yes, please list them and provide examples where possible.

Yes [\_\_\_]

[PLEASE STATE]

No [\_\_\_]

I do not know [\_\_\_]

**Q.1.25** Do you think that lack of common standards for automatic checking equipment prevents an effective cooperation between authorities of different Member States? If yes please explain why.

Yes [\_\_\_]

[PLEASE STATE]

No [\_\_\_]

I do not know [\_\_\_]

Do you think that we need in the EU common standard for the automated enforcement of road traffic

rules, at least for the following offences: speeding, drink-driving, non-use of safety belts and failure to stop at a red traffic light?

Yes

[PLEASE STATE]

No

I do not know

Do you think that we need in the EU a more harmonized approach for the automated enforcement of drug-driving offences? If yes please identify best practices for the enforcement of sanctions for such offences.

Yes

[PLEASE STATE]

No

I do not know

**Q.1.26** Do you (enforcement authorities in your MS) refuse to recognize a sanction imposed by another Member States if the offence has been detected using a specific automatic checking equipment not accepted in your country?

Yes

No

I do not know [ ]