

**EVALUATION STUDY ON THE
APPLICATION OF DIRECTIVE
2011/82/EU¹ FACILITATING
THE CROSS-BORDER
EXCHANGE OF INFORMATION
ON ROAD SAFETY RELATED
TRAFFIC OFFENCES -
FINAL REPORT**

¹ Replaced by Directive 2015/413.

GRIMALDI : STUDIO
LEGALE
: Milano Roma Bruxelles London

EUROPEAN COMMISSION

Directorate-General for DIRECTORATE-GENERAL FOR MOBILITY AND TRANSPORT
Directorate C— Innovative & sustainable mobility
Unit C.4— Road Safety

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Luxembourg: Publications Office of the European Union, 2014

ISBN[[number](#)]

doi:[[number](#)]

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Printed in Belgium

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**EVALUATION STUDY ON THE APPLICATION OF DIRECTIVE 2011/82/EU
FACILITATING THE CROSS-BORDER EXCHANGE OF INFORMATION ON
ROAD SAFETY RELATED TRAFFIC OFFENCES**

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Date: 16 March 2016

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ABBREVIATIONS

ANPR: Automatic number plate recognition

CBE DIRECTIVE: Directive 2011/82/EU replaced by the Directive 2015/413

ERRU: European Register of Road Transport Undertakings

ETSC: European Transport Safety Council

EU: European Union

EUCARIS: European car and driving license information system

FD: Framework Decision 2005/214/JHA

MS: Member State or States

NCP: NATIONAL CONTACT POINT

OJ: Official Journal of the European Union

RDW: Netherlands Vehicle Authority in the mobility chain

TISPOL: European Traffic Police Network

VRD: vehicle registration data

ABSTRACT

This Evaluation assessed the relevance, EU-added value, efficiency, effectiveness, coherence and sustainability of Directive 2015/413/EU ("CBE Directive"). The CBE Directive allows enforcement authorities of the Member State where a road traffic offence has been committed to pursue and fine the owners of vehicles registered in other EU Member States (cross-border enforcement of road traffic rules), while also promoting road users' awareness. This Evaluation also assessed whether there is a need to amend the CBE Directive in order to improve its effectiveness. The analysis found that the CBE Directive introduced measures that are strictly necessary in order to ensure the follow-up of offences committed by non-resident drivers. In addition, the analysis concluded that the CBE Directive is facilitating the cross-border enforcement in a cost-effective way and it has likely improved road safety through the credibility enhancement of enforcement of road traffic rules. However, the analysis also found out that the CBE Directive did not address all pending issues that are hindering the effectiveness of cross-border enforcement. Therefore, this Evaluation recommends, for the long term, the adoption of EU measures allowing for mutual recognition of sanctions for road traffic offences and cooperation in investigations between enforcement authorities of Member States.

1. EXECUTIVE SUMMARY

EN

1.1 Introduction and scope of the Evaluation

This Evaluation assesses the impact on road safety of the Directive 2011/82/EU currently replaced by the Directive 2015/413/EU (the "CBE Directive"). The CBE Directive aims at further reducing fatalities, injuries and material damage on European roads and at ensuring consistent enforcement of sanctions for road traffic offences² ("CBE offences"). It provides an automated tool (hereinafter also, "EUCARIS") that allows enforcement authorities in the Member State where a road traffic offence was committed ("Member State of the offence") to pursue and fine the owners of vehicles ("offending vehicles") registered in another EU Member State ("Member State of residence"). It also lays down rules aimed at promoting the awareness of citizens on road traffic rules in force in all EU Member States through the provision of information. The CBE Directive does not cover the phases that follow-up the identification of the owner of the vehicles and the dispatch of an information letter on the road safety related traffic offence. The case in which an owner of the vehicle refuses to pay (or simply does not pay) is partially covered by the Framework Decision on the application of the principle of mutual recognition to financial penalties i.e. the Framework Decision/214/2005³ which allows, *inter alia*, under the fulfilment of some conditions, the mutual recognition of financial penalties for road traffic offences.

1.2 Implementation of the CBE Directive and status of the cross-border enforcement of sanctions for road traffic rules

The analysis found that the CBE Directive targeted an important gap in the EU legal framework concerning the cross-border enforcement of road traffic rules: namely the cross-border exchange of VRD and the systematic follow-up of road traffic offences committed by non-residents.

Furthermore, the analysis detected that the successful execution of sanctions for road traffic offences committed by non-residents at the EU level is still affected by the lack of tailor made EU measures ensuring that sanctions foreseen by the Member State of the offence are enforced in the Member State of residence.

One of the main reasons why sanctions for road traffic offences are not executed in the Member States of residence is that the Member State of the offence simply refrains from forwarding requests of enforcement under the Framework Decision.

² The offences covered by the CBE Directive ("CBE offences") are: (a) speeding; (b) non-use of a seat-belt; (c) failing to stop at a red traffic light; (d) drink-driving; (e) driving under the influence of drugs; (f) failing to wear a safety helmet; (g) use of a forbidden lane; and (h) illegally using a mobile telephone or any other communication devices while driving.

³ Council Framework Decision 2005/214/JHA.

1.3 Conclusions on the relevance, EU-added value, efficiency, effectiveness, coherence of the Directive

This Evaluation concludes that the CBE Directive **bears an EU added value** due to the fact that it sets up a mechanism that is crucial and strictly necessary in order to ensure the pursuit of all CBE offences committed with vehicles registered in other Member States.

The Evaluation team maintains that the CBE Directive is **cost-effective** since the costs involved in the cross-border exchange of data and follow-up to VRD exchange, including administrative costs, are insignificant if compared to the benefits generated by the Directive and because there are no cheaper alternatives that would achieve the same results.

This Evaluation concludes that the measures of the CBE Directive **are relevant** to the extent that they cover most of the offences that are the major contributing factors to road fatalities on EU roads⁴ and are likely to be committed also by non-resident drivers. In addition, the CBE measures ensure that information on road traffic rules in force in other Member States, is provided to road users, thus allowing them to comply and avoid knowledge gaps.

The Evaluation team considers the CBE Directive as an **effective** tool since it has seriously improved the cross-border enforcement of sanctions for road traffic offences and has likely improved the awareness of road users on road traffic rules in other Member States. Thus, it has indirectly contributed to a reduction of fatalities and accidents on EU roads involving non-residents.

The Evaluation team also concludes that EUCARIS, the software chosen to facilitate the exchange of information, facilitates the CBE Directive's effective implementation by allowing the follow-up of a great⁵ number of road traffic offences involving non-residents.

That said, this Evaluation also concludes that the full effectiveness of the CBE Directive is hampered by temporary factors, such as its late transposition and implementation by several Member States, as well as by more general factors, such as the lack of effective tools ensuring the execution of sanctions for road traffic offences in the Member State of residence of the offender.

The CBE Directive complements existing EU legislation on road safety. Moreover, the CBE Directive pursues two complementary specific objectives: (i) facilitating the enforcement of road traffic rules and (ii) raising the awareness of citizens on road traffic rules and enforcement rules in force across EU MS, which allows road users to comply with diverse road traffic rules. Thus, the CBE Directive should be regarded as coherent.

⁴ It has been assessed that three of the CBE offences were related to respectively 29%, 25% and 17% of all road deaths (Impact assessment on road safety enforcement and cross-border cooperation, Framework contract for ex-ante evaluations and impact assessments (TREN/A1/46-2005), Nederland BV, Rotterdam, 16 March 2007).

⁵ More than 3,000,000 in 2015.

1.4 Conclusions on the sustainability of the Directive and identification of scenarios for initiatives aimed at addressing standing issues

The Evaluation team concluded that the CBE Directive effectiveness may be affected in the long term by the lack of existing EU-wide legal tools that allow for a smooth cooperation between enforcement authorities in road traffic offences investigations as well as of EU tailored measures ensuring the mutual recognition of financial penalties for road traffic offences. This Evaluation recommends some initiatives in order to tackle such persisting issues and improve the effectiveness of follow-up procedure to VRD exchange (sustainability). Notably, this Evaluation suggests, in the short term, a clarification of the scope of current EU tools ensuring mutual recognition and execution of financial penalties. For the long term, this Evaluation recommends the adoption of a specific EU measure that allows for mutual recognition of sanctions (financial penalties as well as disqualifications) for road traffic offences. In addition, the results of this Evaluation suggest the enhancement of cooperation in investigations concerning road traffic offences between enforcement authorities of Member States.

FR

1.5 Introduction et champ d'application de l'Étude d'Évaluation

Cette Étude d'Évaluation estime l'impact sur la sécurité routière de la directive 2011/82/UE actuellement remplacée par la directive 2015/413/UE (la "Directive CBE"). La Directive CBE vise à réduire les décès, les blessures et les dommages matériels sur les routes européennes et à garantir une application cohérente des sanctions pour infractions routières⁶. Elle fournit un outil automatisé (ci-après, "EUCARIS") qui permet aux autorités de l'État membre dans lequel une infraction routière a été commise ("État membre de l'infraction") de poursuivre et sanctionner les propriétaires de véhicules enregistrés dans un autre État membre que celui de l'immatriculation du véhicule ("véhicules étrangers" et "État membre de résidence"). Elle établit également les règles visant à promouvoir la sensibilisation par le biais de l'information des citoyens aux règles de la circulation routière en vigueur dans tous les États membres de l'UE. La Directive CBE ne couvre pas la situation où le propriétaire d'un véhicule étranger refuse de payer une sanction pécuniaire (ou simplement ne paie pas). Cette situation est partiellement couverte par la Décision-Cadre relative à l'application du principe de reconnaissance mutuelle des sanctions pécuniaires à savoir la Décision-Cadre/214/2005⁷ (Décision-Cadre), qui permet, entre autres, dans le cadre du respect de certaines conditions, la reconnaissance mutuelle des sanctions pécuniaires pour les infractions routières.

1.6 La mise en œuvre de la Directive CBE dans le cadre de l'exécution transfrontalière des sanctions relatives aux infractions routières

L'analyse conduite dans le cadre de cette Étude d'Évaluation révèle que la Directive CBE a permis d'intervenir sur une lacune importante dans le cadre juridique de l'UE concernant l'application transfrontalière des règles de la circulation routière: à savoir

⁶ La Directive s'applique aux infractions en matière de sécurité routière énumérées ci-après: a) excès de vitesse; b) non-port de la ceinture de sécurité; c) franchissement d'un feu rouge; d) conduite en état d'ébriété e) conduite sous l'influence de drogues; f) non-port du casque; g) circulation sur une voie interdite; h) usage d'un téléphone portable ou de tout autre équipement de communication en conduisant un véhicule.

⁷ Décision-cadre 2005/214/JAI.

l'échange transfrontalier des données relatives à l'immatriculation des véhicules et le suivi systématique des infractions routières commises par les non-résidents.

De plus, l'analyse a démontré que l'exécution transfrontalière d'une condamnation au paiement d'une sanction pécuniaire demeure encore quasi impossible du moment que la législation européenne ne prévoit pas de mécanismes spécifiques et efficaces assurant que cette exécution puisse avoir lieu.

L'une des principales raisons pour lesquelles les sanctions aux infractions routières ne sont pas exécutées dans les États membres de résidence du contrevenant est que l'État membre de l'infraction s'abstient tout simplement de transmettre les demandes d'exécution en vertu de la Décision-Cadre.

1.7 Conclusions sur la valeur ajoutée européenne, l'efficacité, la pertinence, l'efficacité, la cohérence de la Directive

Cette Étude d'Évaluation conclut que la Directive CBE apporte une valeur ajoutée européenne en raison du fait qu'elle met en place un mécanisme qui est crucial et strictement nécessaire afin d'assurer la poursuite des infractions commises dans le cadre de la Directive CBE avec des véhicules immatriculés dans d'autres États membres.

L'équipe d'évaluation soutient que la Directive est rentable puisque les coûts liés à l'échange de données et des procédures de suivi, y compris les coûts administratifs, sont négligeables si on les compare aux bénéfices générés par la Directive. De plus, il n'y a pas d'alternative moins chère qui permettrait d'atteindre les mêmes résultats.

Cette Étude d'Évaluation conclut que les mesures de la Directive CBE sont pertinentes dans la mesure où elles couvrent la plupart des infractions principale contribuant aux accidents de la route et susceptibles d'être aussi commises par des conducteurs non-résidents⁸. En outre, les mesures de la Directive assurent que l'information sur les règles de la circulation routière en vigueur dans d'autres États membres est fournie aux usagers de la route, leur permettant d'avoir accès aux informations nécessaires afin de se conformer à ces règles.

L'équipe d'évaluation considère la Directive CBE comme un outil efficace car il a sérieusement amélioré l'application transfrontalière des sanctions pour les infractions de la circulation et a probablement amélioré la sensibilisation des usagers de la route aux règles de la circulation routière dans d'autres États membres. Ainsi, elle a indirectement contribué à une réduction sur les routes européennes des décès et des accidents impliquant des non-résidents.

L'équipe d'évaluation conclut également que EUCARIS, le logiciel choisi pour permettre l'échange des données relatives à l'immatriculation des véhicules, facilite la mise en œuvre effective de la Directive en permettant de poursuivre un grand nombre⁹ d'infractions de la circulation impliquant les non-résidents.

⁸ Il a été évalué que trois des infractions routières couvertes par la Directive étaient liées respectivement à 29%, 25% et 17% de tous les décès de la route (Impact assessment on road safety enforcement and cross-border cooperation, Framework contract for ex-ante evaluations and impact assessments (TREN/A1/46-2005), Nederland BV, Rotterdam, 16 March 2007.).

⁹ Plus que 3,000,000 en 2015.

Cela étant, cette Étude d'Évaluation conclut également que la pleine efficacité de la Directive est entravée par des facteurs temporaires, tels que sa transposition et mise en œuvre tardives par plusieurs États membres, ainsi que par des facteurs plus généraux, tels que le manque d'outils efficaces qui assurent l'exécution des sanctions pour des infractions routières dans l'État membre de résidence du contrevenant.

La Directive CBE prévoit des mesures sur la sécurité routière qui sont complémentaires aux mesures de la législation existante de l'UE. En outre, la Directive CBE poursuit deux objectifs complémentaires: (i) faciliter l'application transfrontalière des sanctions en matière de circulation routière et (ii) sensibiliser les citoyens aux règles de la circulation routière et aux règles sur l'application transfrontalière des sanctions en vigueur dans les États membres de l'UE, leur permettant de se conformer à diverses règles de la circulation routière. Ainsi, la Directive CBE doit être considérée comme cohérente.

1.8 Conclusions sur la durabilité de la Directive et identification d'initiatives politiques dans le but de résoudre les problèmes persistants

L'équipe d'évaluation a conclu que l'efficacité de la Directive peut être affectée à long terme par l'absence de mécanismes juridiques permettant une bonne coopération entre les autorités de contrôle du trafic routier des États membres ainsi que par l'absence de mesures de l'UE assurant la reconnaissance mutuelle des sanctions financières pour les infractions de la circulation routière. Cette Étude d'Évaluation recommande certaines initiatives afin de résoudre les problèmes identifiés et améliorer l'efficacité de la procédure d'échange transfrontalier des données relatives à l'immatriculation des véhicules (durabilité). Notamment, cette l'Étude suggère, à court terme, une clarification de la portée juridique des outils actuels de l'UE portant la reconnaissance mutuelle et l'exécution des sanctions financières. Alors que, sur le long terme, cette étude suggère l'adoption d'une mesure spécifique de l'UE qui permet la reconnaissance mutuelle des sanctions (financières ainsi que disqualifications) pour des infractions routières. En outre, les résultats de cette Evaluation suggèrent qu'il est nécessaire de renforcer la coopération entre les autorités de contrôle des États membres dans les enquêtes concernant les infractions routières.

DE

1.9 Einleitung und Gegenstand des Evaluierungsberichts

Die vorliegende Evaluierung analysiert die Auswirkungen der Richtlinie 2011/82/EU¹⁰, welche gegenwärtig durch die Richtlinie 2015/413/EU¹¹ (die „Verkehrsdelikte-Richtlinie“) ersetzt wird, auf die Straßenverkehrssicherheit. Die Verkehrsdelikte-Richtlinie verfolgt das Ziel, die Zahl der Toten, Verletzten und Sachschäden auf den europäischen Strassen weiter zu verringern, und die konsequente Ahndung von die Straßenverkehrssicherheit gefährdenden Verkehrsdelikten („Straßenverkehrsdelikten“) zu gewährleisten.¹² Sie sieht eine Softwareanwendung vor („EUCARIS“), die es den Vollzugsbehörden des

¹⁰ Richtlinie 2011/82/EU.

¹¹ Richtlinie 2015/413/EU.

¹² Die folgenden Straftaten und Verwaltungsübertretungen (Ordnungswidrigkeiten) unterliegen der CBE Richtlinie ("CBE Delikte") sind: (a) Geschwindigkeitsübertretung; (b) Nichtanlegen des Sicherheitsgurts; (c) Überfahren eines roten Lichtzeichens; (d) Trunkenheit im Straßenverkehr; (e) Fahren unter Drogeneinfluss; (f) Nichttragen eines Schutzhelms; (g) unbefugte Benutzung eines Fahrstreifens; und (h) rechtswidrige Benutzung eines Mobiltelefons oder anderer Kommunikationsgeräte beim Fahren.

Mitgliedstaats, in dem ein Straßenverkehrdelikt begangen wurde („Deliktmitgliedstaat“) ermöglicht, die Eigentümer von Fahrzeugen („zuwiderhandelnde Fahrzeuge“) die in einem anderen EU Mitgliedstaat zugelassen sind („Zulassungmitgliedstaat“) zu verfolgen und mit einer Geldbuße zu bestrafen. Weiter schreibt die Richtlinie Regeln vor, die das Ziel verfolgen das Bewusstsein der Bürger für die in den verschiedenen Mitgliedstaaten geltenden Straßenverkehrsvorschriften durch Informationsverbreitung zu fördern. Die Verkehrsdelikte-Richtlinie deckt die Phasen, die der Identifizierung des Fahrzeugeigentümers und dem Versand eines Informationsschreibens zu dem die Straßenverkehrdelikt folgen, nicht ab. Fälle, in denen sich der Eigentümer eines Fahrzeuges weigert zu zahlen (oder schlicht nicht bezahlt) sind zum Teil durch den Rahmenbeschluss über die Anwendung des Grundsatzes der gegenseitigen Anerkennung von Geldstrafen und Geldbußen, d.h. Rahmenbeschluss 214/2005¹³ gedeckt, welcher, *inter alia*, unter bestimmten Bedingungen die gegenseitigen Anerkennung von Geldstrafen und Geldbußen für Straßenverkehrdelikten erlaubt.

1.10 Umsetzung der Verkehrsdelikte-Richtlinie und Stand der grenzüberschreitenden Durchsetzung von Sanktionen für Straßenverkehrsvorschriften

Die Analyse kommt zum Schluss, dass die Verkehrsdelikte-Richtlinie sich mit einer wichtigen Lücke im europäischen Rechtsrahmen bezüglich der grenzüberschreitenden Durchsetzung der Vorschriften im Bereich der Straßenverkehrssicherheit befasst: nämlich dem grenzüberschreitenden Austausch von Fahrzeugzulassungsdaten und der systematischen Verfolgung von Straßenverkehrdelikten die durch nicht Gebietsansässige begangen werden.

Weiter hat die Analyse festgestellt, dass die erfolgreiche Vollstreckung von Sanktionen für Straßenverkehrdelikte, die durch nicht Gebietsansässige begangen werden, auf europäischer Ebene weiterhin durch einen Mangel an maßgeschneiderten EU Maßnahmen beeinträchtigt wird, die sicherstellen, dass Sanktionen die von dem Deliktmitgliedstaat vorgesehen sind, im Zulassungmitgliedstaat durchgesetzt werden können.

Einer der Hauptgründe warum Sanktionen für Straßenverkehrdelikte im Zulassungmitgliedstaat nicht ausgeführt werden ist, dass Deliktmitgliedstaaten es schlicht unterlassen, Entscheidungen zum Zwecke der Vollstreckung unter dem Rahmenbeschluss zu übermitteln.

1.11 Feststellungen über Bedeutung, EU-Mehrwert, Effizienz, Effektivität und Stimmigkeit der Richtlinie

Die vorliegende Evaluierung kommt zu dem Ergebnis, dass die Verkehrsdelikte-Richtlinie einen EU-Mehrwert besitzt, da sie einen entscheidenden und unbedingt erforderlichen Mechanismus zur Verfolgung von allen grenzüberschreitenden Verkehrsdelikten die mit Fahrzeugen die in anderen Mitgliedstaaten registriert sind, schafft.

Das Evaluierungsgruppe vertritt den Standpunkt, dass die Verkehrsdelikte-Richtlinie kosteneffizient ist, da die Kosten für den grenzüberschreitenden Informationsaustausch und Folgemaßnahmen, einschließlich der Verwaltungskosten, verglichen mit den Vorteilen der Richtlinie unerheblich sind, und weil keine kostengünstigeren Alternativen, die das gleiche Ergebnis erreichen würden, bestehen.

¹³ Rahmenbeschluss 2005/214/JHA.

Die Evaluierung folgert, dass die Maßnahmen der Verkehrsdelikte-Richtlinie einschlägig sind, insofern, als dass sie die meisten Delikte abdeckt, die maßgeblich zu tödlichen Unfällen auf EU Straßen beitragen¹⁴ und aller Wahrscheinlichkeit nach auch durch nicht gebietsansässige Fahrer begangen werden. Zusätzlich gewährleisten ihre Vorkehrungen, dass Informationen über die in anderen Mitgliedsstaaten gültigen Straßenverkehrsregeln an Verkehrsteilnehmer bereitgestellt werden, so dass diese sie einhalten können und Informationslücken vermieden werden.

Die Evaluierungsgruppe vertritt weiter, dass die Verkehrsdelikte-Richtlinie ein effektives Instrument ist, da sie die grenzüberschreitende Durchsetzung von Sanktionen für Straßenverkehrsdelikte deutlich verbessert und vermutlich das Bewusstsein der Verkehrsteilnehmer für die in anderen Mitgliedstaaten gültigen Straßenverkehrsregeln gesteigert hat. Dementsprechend hat sie indirekt dazu beigetragen, die Anzahl der Unfälle, bei denen nicht Gebietsansässige betroffen waren, auf europäischen Straßen zu verringern.

Die Evaluierungsgruppe kommt weiter zu dem Ergebnis, dass EUCARIS, die Softwareanwendung zur Erleichterung des Informationsaustauschs, die effektive Umsetzung der Verkehrsdelikte-Richtlinie unterstützt, indem sie die Folgemaßnahmen für eine große Anzahl an Straßenverkehrsdelikten¹⁵ mit nicht Gebietsansässigen möglich macht.

Gleichzeitig kommt diese Evaluierung auch zu dem Schluss, dass die volle Wirksamkeit der Verkehrsdelikte-Richtlinie durch zeitliche Faktoren behindert wird, wie beispielsweise ihre späte Umsetzung und Durchführung durch mehrere Mitgliedstaaten, sowie durch generelle Faktoren, wie beispielsweise dem Mangel an wirksamen Instrumenten welche die Vollstreckung von Sanktionen für Straßenverkehrsdelikte in dem Zulassungsmitgliedstaat des Zuwiderhandelnden sichern.

Die Verkehrsdelikte-Richtlinie ergänzt die bestehende EU Gesetzgebung zur Straßenverkehrssicherheit. Zudem verfolgt die Verkehrsdelikte-Richtlinie zwei komplementäre, spezifische Ziele: (i) die Förderung der Durchsetzung von Straßenverkehrsregeln und (ii) eine Steigerung des Bewusstseins von Bürgern über Straßenverkehrsregeln und Durchführungsbestimmungen welche in den EU Mitgliedstaaten gelten, und es Verkehrsteilnehmern ermöglicht, die unterschiedlichen Verkehrsregeln einzuhalten. Somit sollte die Verkehrsdelikte-Richtlinie als in sich stimmig angesehen werden.

1.12 Schlussfolgerungen bezüglich der Nachhaltigkeit der Richtlinie und Identifizierung von Szenarien für Initiativen mit dem Zweck bestehende Problematiken zu bewältigen

Die Evaluierungsgruppe kommt zu dem Schluss, dass die Wirksamkeit der Verkehrsdelikte-Richtlinie auf lange Sicht sowohl durch den Mangel an bestehender EU-weiter Rechtsakte, die die reibungslose Zusammenarbeit zwischen den Vollzugsbehörden in Ermittlungen bei Verkehrsverstöße erlaubt, eingeschränkt wird, als auch dadurch,

¹⁴ Es wird geschätzt, dass drei der Straßenverkehrsdelikte für jeweils 29%, 25% and 17% aller road deaths verantwortlich sind (Impact assessment on road safety enforcement and cross-border cooperation, Framework contract for ex-ante evaluations and impact assessments (TREN/A1/46-2005), Nederland BV, Rotterdam, 16 March 2007).

¹⁵ Mehr als 3000000 im Jahr 2015.

dass keine auf die EU zugeschnittenen Maßnahmen die gegenseitige Anerkennung von Geldstrafen für Straßenverkehrsdelikte sichern. Die Evaluierung stellt politische Optionen vor um bestehende Problematiken zu bewältigen und die Wirksamkeit der Maßnahmen die auf einen Austausch von Fahrzeugzulassungsdaten folgen zu verbessern (Nachhaltigkeit). Insbesondere empfiehlt diese Evaluierung, kurzfristig den Anwendungsbereich der geltenden EU Rechtsakte zur Sicherung der gegenseitigen Anerkennung und Vollstreckung von Geldbußen bzw. Geldstrafen klarzustellen.

Auf lange Sicht wird empfohlen, eine EU Maßnahme zu treffen, die die gegenseitige Anerkennung von Sanktionen (Geldbußen/strafen, sowie des Führerscheinentzüge) für Straßenverkehrsdelikte garantiert. Weiter legen die Ergebnisse dieser Evaluierung eine Verstärkung der Zusammenarbeit bei Ermittlungen mit Bezug auf Straßenverkehrsdelikten zwischen den Vollzugsbehörden der Mitgliedstaaten nahe.

2. INTRODUCTION

2.1 Purpose of the evaluation

This Evaluation (hereinafter also "Study") assesses the impact on road safety of the Directive 2011/82/EU¹⁶ currently replaced by the Directive 2015/413¹⁷ (the "CBE Directive"), and notably its effects in terms of promoting road safety.

This Directive provides enforcement authorities in the Member State where a road traffic offence was committed with an automated tool to pursue and fine the owners of vehicles registered in other EU Member States

The Study assesses, ex-post, the following aspects: the **effectiveness of the CBE Directive** in reducing the number of fatalities on European Union roads; **its relevance**, i.e. whether its provisions are suitable to achieve its objectives; **its added value**, i.e. whether the mechanism put in place by the Directive presents advantages compared to national solutions; **its coherence**, i.e. the mutual consistency of the provisions of the Directive and their consistency with the provisions of other pieces of EU legislation; **its efficiency**, i.e. the cost-effectiveness¹⁸ of the mechanism put in place by the Directive; and **its sustainability**, i.e. the suitability of the provisions of the CBE Directive to affect positively road safety in the long term.

This Evaluation also aims at assessing whether certain provisions of the CBE Directive should be reviewed in order to further improve its effectiveness, mostly with regard to its scope (e.g. need to improve follow-up procedures, coverage of other related traffic offences) and other specific technical aspects, such as the need to develop comparable methods, practices and minimum standards for automatic checking equipment and enforcement issues. These aspects concern the *ex-ante* part of this Evaluation. Notably, within the *ex-ante* evaluation, the Study identifies alternative scenarios to improve the current legal framework. Moreover, it assesses whether the Commission should adopt road safety guidelines at the Union level within the common transport policy framework, in order to ensure greater convergence of road traffic rules enforcement across Member States. In addition, this Evaluation formulates a proposal for road safety guidelines outlining the best practice for the automated enforcement of road traffic rules, concerning the following offences: speeding, drink-driving, non-use of safety belts and failure to stop at a red traffic light.

The findings of this Evaluation will feed into a Report that the Commission is due to submit by 7 November 2016 at the latest, pursuant to Article 11 of the CBE Directive, to the Parliament and the Council on the application of the CBE Directive by the Member States, with an opinion on its possible revision.

Pursuant to the above Article 11, such report should, *inter alia*, assess the effectiveness of the CBE Directive in reducing the number of fatalities on European Union (EU) roads.

¹⁶ Directive 2011/82/EU of the European Parliament and of the Council of 25 October 2011 facilitating the cross-border exchange of information on road safety related traffic offences, OJ L 288, 5.11.2011, p. 1–15.

¹⁷ Directive 2015/413/EU of the European Parliament and of the Council of 11 March 2015 facilitating cross-border exchange of information on road-safety-related traffic offences, OJ L 68, 13.3.2015, p. 9–25.

¹⁸ Cost-effectiveness can be defined as the extent to which an action (here, the CBE Directive) has achieved or is expected to achieve its results at a lower cost compared with alternatives.

It will also take issue on whether the Commission should adopt road safety guidelines at the Union level within the common transport policy framework in order to ensure greater convergence of road traffic rules enforcement across Member States and look into the possibility of harmonising traffic rules where appropriate.

2.2. Scope of the evaluation

The objective of the Study is to provide the European Commission with an independent and unbiased evaluation of the road safety effects stemming from the application of the CBE Directive (*ex-post* evaluation). The period considered in the *ex-post* evaluation is 2014-2015.

It will also assess whether and how the CBE Directive should be amended to improve its effectiveness (*ex-ante* evaluation).

Within the *ex-ante* evaluation, the Study assesses the need to:

- develop comparable methods, practices and minimum standards for automatic checking equipment;
- follow-up on the exchange of information under the CBE Directive in order to strengthen the enforcement of sanctions, especially in cases where a financial penalty is refused to be paid;
- harmonise road traffic rules, especially those related to the offences covered by the CBE Directive;
- add other road safety related traffic offences to the scope of the CBE Directive.

The geographical scope of this Evaluation covers the 28 Member States.

2.3 Structure of this Report

This report is the Final Report of this Evaluation study.

The next section lays out background information in order to identify the issues that the CBE Directive intended to address.

Section 4 gives an overview of the Evaluation questions to which this Study has answered in order to assess the impact of the Directive.

Section 5 illustrates the methodology applied for this Study.

Section 6 provides an overview of the cross-border enforcement of road traffic rules in the EU, explaining which issues are addressed by the CBE Directive, and which issues are addressed by further EU legal tools and by international agreements (Section 6.1). It also assesses the impacts of the CBE Directive on enforcement (Section 6.2 and Section 6.3), on fatalities and on the awareness of road users (Section 6.3). Moreover, it assesses the impacts of the CBE Directive in terms of generated costs and benefits and compares them with the ones of possible alternative policy options (Section 6.4). Finally, it identifies ways to improve the impacts of the CBE Directive (Section 6.5).

Section 7 provides replies to the Evaluation questions, while Section 8 provides the conclusions of the Study on the impact of the CBE Directive and its recommendations for improving the enforcement of road traffic rules against non-residents.

3. BACKGROUND TO THE INITIATIVE

3.1. Description of the initiative and its objectives

Speeding, drink driving and non-use of seat belts are the cause of the majority of road fatalities. In 2004, for example, it has been assessed that these offences were responsible for respectively 29%, 25% and 17% of all road deaths¹⁹. In 2004 the share of foreign vehicles in vehicles being involved in accidents ranged between 1% and 21%. On average 3% of the vehicles involved in road accidents in the EU25 were foreign registered vehicles²⁰. In Luxemburg such share reached 21%. In France, Slovakia and UK it amounted to 4%, while in Austria 5%²¹.

Based on official data, non-resident drivers accounted before 2011 for approximately 5% of road traffic in the EU. 15% of the number of detected speed offences was committed by non-resident drivers and it was three times more likely for a foreign-registered car to commit traffic offences than for a domestically-registered one. In some transit countries, such as France, speeding offences committed by foreign-registered cars accounted for approximately 25% of the total number of speeding offences committed, with the figure going up to 40-50% during periods of high transit and tourism²².

One of the reasons why non-residents were more inclined to infringe road traffic rules was identified in their perception that they were less likely to be sanctioned when driving in an EU Member State where they did not reside or had property and that, in any case, it was less likely for them to face judicial action if they did not pay fines imposed by foreign authorities²³.

Indeed, around 90%²⁴ of the offences committed by non-residents, i.e. committed with foreign registered vehicles, and detected automatically or, in any case, without stopping

¹⁹ Impact assessment on road safety enforcement and cross-border cooperation, Framework contract for ex-ante evaluations and impact assessments (TREN/A1/46-2005), Nederland BV, Rotterdam, 16 March 2007.

²⁰ Impact assessment on road safety enforcement and cross-border cooperation, (TREN/A1/46-2005).

²¹ Impact assessment on road safety enforcement and cross-border cooperation, (TREN/A1/46-2005).

²² Commission Staff working document accompanying the 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.

²³ See Consultation Paper, Respecting the rules, Better Road Safety Enforcement in the European Union, 6 November 2006. Available at: http://ec.europa.eu/transport/road_safety/consultations/doc/2007_01_19_road_safety_enforcement_consultation_paper.pdf; Impact assessment on road safety enforcement and cross-border cooperation, Ecorys Nederland BV, Rotterdam, 16 March 2007.

²⁴ The Team estimated that more than 90% of the offences committed by non-residents were not followed-up at the EU level. This estimate was made taking into account the Team's estimates of offences committed by non-residents on a yearly basis in the EU (around 10,000,000) and the estimates on the number of offences followed-up by Member States before the implementation of the CBE Directive (around 1,000,000). The latter estimates were made by the Team based on data provided by the Netherlands, Austria and Germany and on qualitative information provided by authorities of other Member States. For further details on how the number of overall CBE offences committed by non-residents were estimated please see Section 6.1.4.1. It is important to point out that there are no specific data available for all Member States on the number of offences committed by non-residents and followed-up before the implementation of the CBE Directive and that the situation varied across Member States. The Evaluation team found for example that 100% of the offences committed by non-residents and not enforced on the spot were not followed-up in some Member States such as Poland, Hungary and Lithuania. In other Member States, such as Austria, 90% of the offences committed by non-residents were not followed-up (information provided by Austrian Ministry of Interior who stated that in the best case scenario 100,000 road traffic offences were followed-up before the implementation of the CBE

the vehicle, were not sanctioned at the time when the CBE Directive was proposed, i.e. before 2011. In many cases, sanctions, though issued, were indeed not executed²⁵.

Enforcement of road traffic rules against non-residents was challenging for Member States partially because, before the adoption of the CBE Directive, there were no EU-wide procedures for accessing the Vehicle Registration Data ("VRD") of the vehicles registered in other Member States and thus tools allowing for the identification of the owners of foreign registered vehicles with which road traffic offences were committed (hereinafter also, "offending vehicles")²⁶.

There was in theory the possibility to exchange VRD data under the Prüm Decision²⁷. However, some Member States expressly mentioned that they were not exchanging VRD data under such Decision with regard to road traffic offences. In fact, the above mentioned tool is used by some Member States as a cooperation tool for criminal investigations matters and notably terrorism or cross-border crime²⁸.

The lack of EU-wide mechanisms allowing VRD exchange implied that road traffic offences detected automatically and offences detected by enforcement authorities without stopping a vehicle, i.e. offences not subject to on-the-spot-fines, were not followed-up because Member States' enforcement authorities were often not able to identify the owner of the foreign registered vehicle. Consequently, they could not identify non-resident offenders and impose a fine on them to be executed under EU legislation on the application of the principle of mutual recognition to financial penalties²⁹.

In brief, non-resident road traffic offenders were often not sanctioned in the EU, and enjoyed a kind of impunity that, on the one hand, jeopardized road safety and, on the other hand, granted non-residents a privilege, impunity, not granted to resident offenders^{30 31}. With mobility increasing across the EU³², the share of non-residents

Directive). The situation was different in the Netherlands. According to the Evaluation team's estimates the Netherlands followed-up 90% of the offences committed by non-residents. These estimates were made taking into account the data provided by the Dutch authorities concerning offences followed-up under bi-lateral cooperation on a yearly basis in the time-slot 2009-2014 and the data provided concerning the number of speeding offences that were committed by non-residents in the Netherlands in 2014. Moreover, the Team found that the situation of the Netherlands was unique and that other Member States followed-up a small number of road traffic offences.

²⁵ Impact assessment on road safety enforcement and cross-border cooperation, (TREN/A1/46-2005).

²⁶ A legal basis for VRD exchange was the Vienna Convention on Road Traffic of 1968, of which many MSs were and are parties but it was not used in practice for CBE offences but only for more serious offences such as those causing accidents (see Section 6.1.5).

²⁷ 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, p. 1–11. The Decision aims to improve the exchanges of information between the authorities responsible for the prevention and investigation of criminal offences. The decision sets out provisions with regard to: the automated access to DNA profiles and certain national vehicle registration data; supply of data in relation to major events; supply of information in order to prevent terrorist offences; other measures for stepping up cross-border police cooperation.

²⁸ See the COMMISSION STAFF WORKING DOCUMENT accompanying the 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.

²⁹ See Consultation Paper, Respecting the rules, Better Road Safety Enforcement in the European Union, 6 November 2006. Available at: http://ec.europa.eu/transport/road_safety/consultations/doc/2007_01_19_roadsafety_enforcement_consultation_paper.pdf

³⁰ See Consultation Paper, Respecting the rules, Better Road Safety Enforcement in the European Union, 6 November 2006.

involved in road accidents and fatalities was likely to increase substantially without an action targeting enforcement of road traffic rules against non-residents.

In addition, the increasing use of automatic checking equipment to detect road traffic offences not accompanied by an exchange of VRD would have likely led to an increase of detected offences committed by non-residents which were not followed-up.

This could escalate the discontent of resident drivers, who can easily be identified by enforcement authorities of the State where they reside, when they infringe road traffic rules. In addition, it could foster the belief that enforcement of road traffic rules is unfair and discriminatory, since only residents would be ultimately sanctioned for road traffic offences not subject to on-the-spot-fines^{33 34}.

In 2004 the Commission issued a Recommendation on enforcement in the field of road safety, encouraging Member States to increase the quality and effectiveness of enforcement and in particular to facilitate cross-border enforcement by means of cooperation between authorities of Member States, in view of following-up offences committed by non-residents³⁵.

A number of countries, e.g. the Netherlands, Germany, France and Belgium, had implemented bilateral agreements VRD with neighbouring countries, allowing for the identification and sanctioning of non-resident offenders. However, some other Member States did not exchange data with any other Member States by means of any bilateral or multilateral agreements aimed at facilitating the enforcement of road traffic rules against non-resident offenders.

In the best case scenario, such as under the bilateral agreements Netherlands-Germany and Netherlands-Belgium, Dutch authorities followed-up on a yearly³⁶ basis more than 260,000 road traffic offences committed by German residents and more than 190,000 road traffic offences committed by Belgian residents. However, all the other offences committed by residents of other Member States were not followed-up.

³¹ Impact assessment on road safety enforcement and cross-border cooperation, (TREN/A1/46-2005).

³² Impact assessment on road safety enforcement and cross-border cooperation, (TREN/A1/46-2005).

³³ The issue of discrimination was raised by stakeholders from Member States having efficient systems for the automatic detection of road traffic rules (French Interior Ministry, UK Police and Ministry of Justice). The fact that non-residents are less likely to be punished than residents has been identified by the above stakeholders as a factor undermining the acceptance of enforcement of road traffic rules. From a logical standpoint an increase of the use of automatic checking equipment, and thus, of the number of sanctions imposed to resident road traffic offenders, not accompanied by measures allowing the sanctioning of non-residents, would have likely affected the credibility of the enforcement at the Member States' level. Resident drivers would have perceived that non-residents enjoyed impunity when driving in their Member State. In addition, increased mobility in the EU, and thus an increase of the number of non-residents driving on EU roads, would have likely further escalated the situation, giving non-residents the feeling that a great percentage of road users driving on the territory of their Member State (and causing injuries and fatalities) was not likely to be sanctioned for infringements of road traffic rules.

³⁴ Impact assessment on road safety enforcement and cross-border cooperation, (TREN/A1/46-2005).

³⁵ COMMISSION RECOMMENDATION of 6 April 2004 on enforcement in the field of road safety (2004/345/EC).

³⁶ Years 2009-2014. Data provided by the Dutch authorities to the European Commission (Reply from the Dutch Government to the European Commission's letter sent via EU Pilot system, case 7234/14/MOVE) and to the Evaluation team (reply by the Dutch Ministry of Justice).

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France and Luxembourg started cooperating in 2005 based on an informal agreement and exchanged data on the number plate of vehicles aimed at identifying the owner of the vehicle with which a traffic offence was committed³⁷.

The Nordic countries, i.e. Finland, Sweden, Norway, Denmark and Iceland were cooperating since the 1960s in sending fines to non-resident offenders and collecting them from inhabitants for offences committed in one of the other countries³⁸.

In this context, in 2011, the EU adopted the CBE Directive in order to improve the cross-border exchange of information on road safety related traffic offences. The CBE Directive is meant to facilitate cross-border enforcement of penalties for offences committed by a non-resident driver by allowing for the identification of the owner of an offending vehicle. The CBE Directive, based on Article 87(2) TFEU³⁹, foresees an automated tool for enforcement authorities in the Member State where the offence was committed (hereinafter also, "Member State of the offence") to pursue and fine the drivers of vehicles registered in other EU Member States.

The CBE Directive aims at further reducing fatalities, injuries and material damage on European roads and at ensuring consistent enforcement of sanctions for road traffic offences in the EU, in order to provide for the equal treatment of resident and non-resident drivers. To this end, it improves the enforcement of road traffic rules regarding non-resident drivers/offenders, through the enabling of the cross-border exchange of vehicle registration data (Article 4). The CBE Directive indeed foresees the use of a software application (hereinafter also, "EUCARIS"⁴⁰) allowing EU Member States to perform automated searches for data related to vehicles, owners or holders and to exchange VRD between them.

The CBE Directive also lays down rules aimed at promoting the awareness of citizens of road traffic rules in force in all EU Member States through the provision of information (Article 8).

It provides an EU wide answer for the follow-up on traffic fines imposed on non-resident road users, previously partially addressed by cooperation agreements in the form of bilateral and multilateral agreements. The deadline for the transposition was November 2013 for most Member States, with the exception of the UK, Ireland and Denmark⁴¹.

³⁷ Impact assessment on road safety enforcement and cross-border cooperation, (TREN/A1/46-2005).

³⁸ Impact assessment on road safety enforcement and cross-border cooperation, (TREN/A1/46-2005).

³⁹ Article 87 TFEU, which is part of Chapter 5, concerning 'Police cooperation' of Title V, entitled 'Area of Freedom, Security and Justice' reads as follows: '(1) The Union shall establish police cooperation involving all the Member States' competent authorities, including police, customs and other specialised law enforcement services in relation to the prevention, detection and investigation of criminal offences. (2) For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures concerning: (a) the collection, storage, processing, analysis and exchange of relevant information.'

⁴⁰ EUCARIS stands for "European Vehicle and Driving Licence Information System".

⁴¹ In accordance with Articles 1 and 2 of the Protocol (No 21) on the Position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States did not take part in the adoption of the CBE Directive and were not bound by it or subject to its application. In accordance with Articles 1 and 2 of the Protocol (No 22) on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark did not take part in the adoption of the CBE Directive and was not bound by it or subject to its application.

It concerns the following eight road safety related traffic offences: (a) speeding; (b) non-use of a seat-belt; (c) failing to stop at a red traffic light; (d) drink-driving; (e) driving under the influence of drugs; (f) failing to wear a safety helmet; (g) use of a forbidden lane; and (h) illegally using a mobile telephone or any other communication devices while driving.

In practice, the CBE Directive requires the concerned Member States to designate a National Contact Point ("NCP") for the system. This NCP grants access to the information exchange system for the identification of the owner of the registration certificate of the offending vehicle.

Upon detecting an offence, the NCP in that Member State grants access to the prosecuting authorities to perform a search through the information exchange system, using the full licence plate number of the offending vehicle.

Once the owner or holder of the vehicle or any other person suspected of having committed a road safety related traffic offence has been identified, the Member State of the offence decides whether to initiate follow-up proceedings. To that end, Article 5 of the CBE Directive lays down how the offence in question is to be communicated to the person concerned and provides a template of the letter to be sent, drafted preferably in the language of the registration document and including any relevant information, notably the nature of the road safety related traffic offence, the place, date and time of the offence, the title of the texts of the national law infringed, the sanction and, where appropriate, data concerning the device used for detecting the offence. A reply form is enclosed in this communication, which gives the owner the opportunity to identify the driver of the vehicle, in cases where he was not driving at the time of the offence.

Under EU law, in case of non-payment of a fine (imposed to a non-resident), Member States can follow-up according to the rules of the Framework Decision⁴² on the application of the principle of mutual recognition to financial penalties. This Framework Decision is a general instrument, which targets a wide range of financial penalties in addition to the penalties imposed for road traffic offences, adopted years before the adoption of the CBE Directive.

This instrument allows the Member State of the offence to request the Member State where the offender resides or has property ("Member State of residence") to recognise and enforce a financial penalty issued in the Member State of the offence.

Moreover, the enforcement of a sanction against a non-resident traffic offender might also take place in the Member State of the offence, in case the non-resident offender does not pay a fine. Indeed, the offender might be requested to pay a fine when he returns to the country where the offence was committed.

In May 2014, the European Court of Justice (ECJ)⁴³ ruled that the legal basis of the CBE Directive was incorrect, as its measures 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 would stay in place while a new proposal is agreed upon. The Court granted a one-year transition period, meaning the rules remained in effect until May 2015.

⁴² Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties, OJ L 76, 22.3.2005, p. 16–30.

⁴³ Case C-43/12.

Following the ruling, a new Directive 2015/413 was adopted in March 2015 with a legal basis under the EU transport policy and notably Article 91(1)(c) TFEU⁴⁴.

The CBE Directive’s objectives are to improve road safety and notably to reduce fatalities, injuries and material damage on EU roads as well as to ensure a consistent enforcement of road traffic rules and notably the equal treatment of residents and non-residents. It pursues such general objectives through the realisation of specific objectives: i) introducing measures aimed at the awareness’ increase of road users of road traffic rules and; ii) enabling the cross-border exchange of Vehicle Registration Data, in order to facilitate the cross-border enforcement of sanctions for road traffic offences.

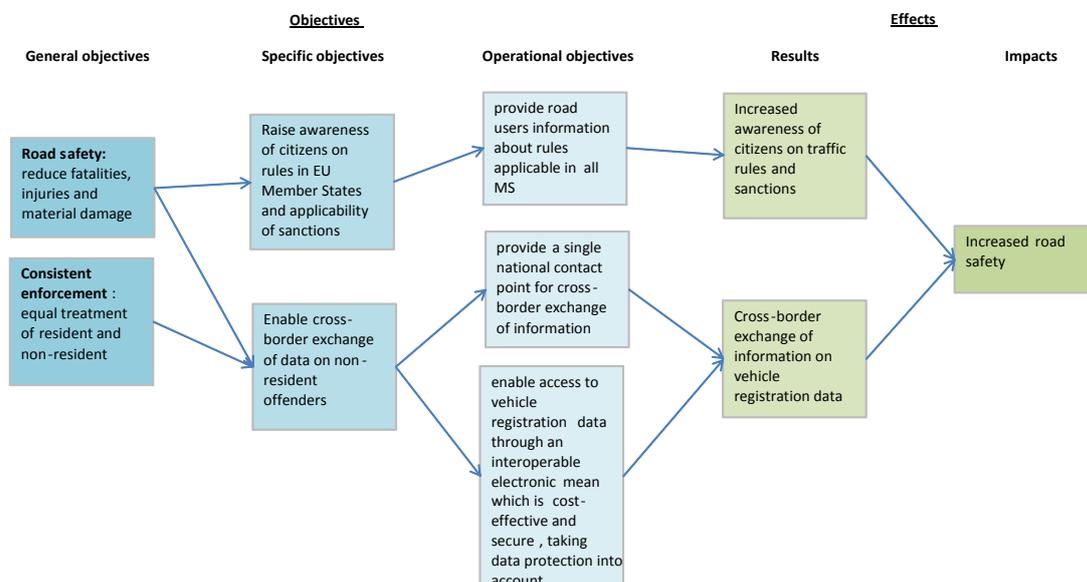
To the above ends it foresees mechanisms to ensure that: information on rules in force in Member States is provided to road users; Member States appoint Single National Contact Points responsible for the exchange of VRD; and electronic access to VRD of Member States is granted to authorities of other Member States.

The CBE Directive is expected to improve road users’ awareness on road traffic rules and to allow the cross-border exchange of VRD, thus facilitating the cross-border enforcement of sanctions for road traffic offences.

Both the above results have a positive impact on compliance with road traffic rules, and, consequently on road safety.

Figure 1 illustrates how the objectives detailed above and pursued by the CBE Directive are expected to impact road safety.

Figure 1 Intervention logic of the CBE Directive



⁴⁴ Article 91(1) TFEU, which is part of Title VI, entitled 'Transport', of Part Three of the TFEU, provides: '(1) For the purpose of implementing Article 90, and taking into account the distinctive features of transport, the European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, lay down: (c) measures to improve transport safety; (d) any other appropriate provisions.'

4. EVALUATION QUESTIONS

In order to evaluate *ex-post* the application of the CBE Directive, the Study assesses the relevance, effectiveness, sustainability, efficiency, EU added value and coherence of the CBE Directive and replies to a set of evaluation questions listed by the European Commission in the Tender Specifications MOVE/C4/2014-255 (*“Evaluation study on the application of Directive 2011/82/EU facilitating the cross-border exchange of information on road safety related traffic offences”*) and in the Table 1 below.

Table 1 Evaluation Criteria and questions

Evaluation criteria	Evaluation questions
Relevance	<ol style="list-style-type: none"> 1. Is the scope of the CBE Directive in terms of traffic offences adequate? If it is not, in which respect? 2. Does the CBE Directive adequately cover the issue of the awareness of citizens on rules in force in EU Member States in the field covered by the CBE Directive? If not, in which respect?
Effectiveness	<ol style="list-style-type: none"> 3. What are the impacts on fatalities and accidents of the measures set out in the CBE Directive? 4. Are there any non-targeted significant results and impacts of the measures set out in the CBE Directive? 5. What are the main problems with the implementation of the CBE Directive in Member States? 6. Which factors have hindered the achievement of the general objectives of the CBE Directive? 7. To what extent does EUCARIS contribute to the effective implementation of the CBE Directive, including equal treatment of resident and non-resident offenders? 8. To what extent could the development of comparable methods, practices and minimum standards for automatic checking equipment improve the impacts achieved by the implementation of the CBE Directive? 9. To what extent could the follow-up procedures between competent authorities of the Member States for the transmission of the final decision to impose a financial penalty as well as the recognition and enforcement of the final decision improve the impacts achieved by the implementation of the CBE Directive? 10. What are the impacts on the awareness of citizens on the rules in force in EU Member States in the field covered by the CBE Directive?
Sustainability	<ol style="list-style-type: none"> 11. Would the application of the CBE Directive without any modifications or follow-up initiatives be still appropriate in 5 years? If not, which aspects need to be reinforced?
Efficiency	<ol style="list-style-type: none"> 12. To what extent are the costs involved in the cross-border exchange of data and for the follow-up procedures adequate to achieve the objectives of the CBE Directive? 13. What aspects of the implementation of the CBE Directive generate an unnecessary administrative burden and how could this be improved? 14. Would it be possible to achieve the same level of road safety protection more efficiently by other methods of enforcement of traffic rules?
Added value	<ol style="list-style-type: none"> 15. What are the advantages of an exchange of vehicle registration data at the EU level? 16. In how far could the same or better results be achieved by bilateral or multilateral agreements between Member States?
Coherence	<ol style="list-style-type: none"> 17. To what extent has the CBE Directive contributed to the improvement of road safety in the context of other factors/initiatives having effects on road safety (e.g. 3rd Driving Licence Directive)? 18. How far the specific objectives of the CBE Directive, i.e. to facilitate the enforcement of road traffic rules and to raise awareness of citizens on traffic rules, are synergic and complement each other?

5. METHOD/PROCESS FOLLOWED

5.1. Process/Methodology

The methodology applied by the Contractor to carry out this Evaluation has been tailored on the different contractual tasks as identified in the Tender Specifications and on the elaboration of specific indicators to be applied in order to reply to the Evaluation questions.

In this regards, the Evaluation was composed of seven contractual tasks. Tasks 1 and 2 mainly related to the effectiveness and relevance of the CBE Directive. Tasks 3 and 4 concerned the sustainability of the CBE Directive. Task 5 addressed its efficiency, i.e. its cost-effectiveness. Task 6 consisted in organising a Stakeholder Meeting on the CBE Directive. The latter took place in Brussels on 5 October 2015 and is further detailed in see Section 5.2.4. Task 7 was aimed at assessing its coherence and relevance.

Notably within Task 1 the Evaluation team carried out a quantitative assessment of the effectiveness of the CBE Directive on the reduction of fatalities and fatal accidents on EU roads in 2013/2015 compared to previous years.

Within Task 2 the Team assessed whether EUCARIS guarantees an effective, expeditious, secure and confidential exchange of specific vehicle registration data and carried out a quantitative analysis with regard to how many road safety-related traffic offences detected automatically were followed-up by means of searches via EUCARIS in 2013/2015.

Within Task 3 the Team assessed the need to develop comparable methods, practices and minimum standards for automatic checking equipment and drafted a proposal for road safety guidelines outlining the best practices of the automated enforcement of road traffic rules for the following offences: speeding, drink-driving, non-use of safety belts and failure to stop at a red traffic light.

Within Task 4 the Team assessed the effectiveness of existing mechanisms for the follow-up to the VRD exchange in order to understand whether there is a need to strengthen such mechanisms and to target situations where the payment of a financial penalty is refused or the penalty is simply not paid. Within this Task the Team investigated issues that affect the enforcement of road traffic rules and that concern Member States' different enforcement practices and rules as well as their possible impact on the cross-border enforcement of road traffic rules. This analysis required an assessment of the mechanisms in place at EU level for the mutual recognition of financial penalties for road traffic offences and the enforcement of sanctions imposed by the Member State of the offence in the Member State where the offender resides or has property. This analysis implied also assessing whether different liability regimes for road traffic offences are an obstacle to cross-border enforcement and whether they could be overcome without the harmonization of road traffic rules.

In addition, the Team assessed whether the scope of the CBE Directive is appropriate in term of targeted road traffic offences, or needs to be amended in order to include within its scope further road traffic offences that are likely to be committed by non-resident drivers and that affect road safety.

Within Task 5 the Team carried out a quantitative assessment of administrative costs related to the implementation of the CBE Directive, including those for the cross-border exchange of data. It also gathered information allowing for the quantification of follow-up procedures' costs falling into the scope of the CBE Directive (pursuant to Article 5), i.e. sending information letters to the alleged offenders. The Evaluation did not estimate the costs of the phases of cross-border enforcement which relate to the situation when a

non-resident traffic offender refuses to pay or simply does not pay a fine for a road traffic offence (hereinafter, "follow-up procedures"), because the quantification of such costs goes beyond the scope of this Evaluation, to the extent that those follow-up procedures are not within the scope of the CBE Directive. The assessment of the costs of follow-up procedures will be covered by an impact assessment that will be carried out in the future in relation to the assessment of the policy options aimed at improving the effectiveness of the CBE Directive.

Within Task 7 the Team assessed the legal consistency of the CBE Directive and notably its internal coherence and its coherence with other EU legislative tools.

Annex 1 provides a table detailing the scope of each contractual task and the indicators applied to the analysis.

In general, the methodology has combined the collection and analysis of legal data with that of quantitative and qualitative data. A legal analysis was carried out in order to assess:

- i. the implementation of the CBE Directive at national level;
- ii. the functioning of the cross-border enforcement of sanctions for road traffic offences and the problems with the implementation of the Framework Decision on the application of the principle of mutual recognition to financial penalties;
- iii. the existing case law on automatic checking equipment as well as the legislation on standards for automatic checking equipment;
- iv. the scope of bilateral and multilateral agreements, which are relevant for the cross-border enforcement of road traffic rules.

In order to carry out the contractual tasks and answer to the Evaluation questions, the Evaluation team elaborated specific indicators and structured the data collection accordingly. The indicators applied to the analysis were elaborated in the inception phase of this Study and were subject to changes in light of the findings of the analysis and of the enforcement data unavailability/availability, notably data on fatalities and accidents caused by/involving non-resident offenders as well as on searches carried out through the mechanism for the exchange of VRD under the CBE Directive, the EUCARIS/CBE application.

In this context, in order to assess the impact of the CBE Directive on fatalities and accidents the Evaluation team gathered data on the total number of fatalities and fatal accidents at the EU and Member States' levels and data on fatalities and accidents involving non-resident offenders between 2011-2015. The Evaluation team found that not all Member States has available data on fatalities and accidents involving non-residents and that the CBE Directive was implemented with delay in most Member States. Both factors hindered the conclusive potential of the gathered data. Thus, the Team carried out an assessment of the Directive's impact on fatalities and fatal accidents using more indicators than the ones originally proposed and applying both a quantitative and qualitative approach to the analysis. Notably, the Team assessed the variation of the share of fatalities/fatal accidents involving non-resident offenders in the years preceding and following the start of the implementation of the CBE Directive. In addition, the Team estimated the alleged impact of the CBE Directive on compliance. The estimation was carried out through the data gathering on road traffic offences committed by non-residents and followed-up via EUCARIS.

In order to assess the effectiveness of the EUCARIS/CBE application, the Evaluation team not only gathered quantitative data on the number of automated searches carried out with the EUCARIS/CBE (failed ones included)⁴⁵, but also on the share of offences committed by non-resident offenders compared to the overall number of offences. This latter data indeed gives an account of the relevance of an EU-wide action to track-down road traffic offences committed by non-resident offenders and provides a picture of the current situation regarding these types of offences. Going more into detail with regard to the EUCARIS/CBE application, the Evaluation team verified the extent to which the system was both implemented and used at national level and whether it was technically compliant with the CBE Directive. EUCARIS was also compared with other systems having the same business purpose and characteristics with regard to its Total Cost of Ownership⁴⁶ as well as its capacity to fulfil the security and data protection requirements required by law. Finally, another aspect considered for the measurement of effectiveness was identified in the satisfaction of end-users, thus, also such aspect was assessed by the Evaluation team.

In order to assess the need to develop comparable methods practices and minimum standards for automatic checking equipment and to elaborate a proposal for road safety guidelines outlining the best practice of the automated enforcement of road traffic rules (Task 3), the Evaluation team carried out a legal assessment of the possible implications of national case law on standards for automatic checking equipment. The unavailability of case law concerning the mutual recognition of sanctions for road traffic offences detected automatically led the Evaluation team to look into national case law on standards for automatic checking equipment. The opinion of relevant stakeholders with specific expertise in the transport sector was also taken into account in order to assess whether there is a need to ensure a certain convergence of standards, practices and methods for the automated enforcement of road traffic rules. The Team carried out a legal analysis of Member States' legislation concerning automatic enforcement of road traffic rules, an analysis of qualitative opinions provided by stakeholders and of data on automatic checking equipment installed in EU Member States as well as of their technical features in order to identify best practices in the automated enforcement of road traffic rules.

In order to assess whether the scope of the CBE Directive is appropriate (Task 4), the Evaluation team gathered not only quantitative data on offences not covered by the Directive but also qualitative data on the way such offences are detected. This allowed the Evaluation team to understand the extent to which the extension of the scope of the Directive to cover such offences would be useful.

In order to assess the need to improve follow-up procedures, the Evaluation team collected quantitative and qualitative data on current tools ensuring the mutual recognition of financial penalties and on the effectiveness of bilateral and multilateral agreements, which are relevant for the cross-border enforcement of road traffic rules. Also a preliminary legal analysis was carried out in order to identify policy options that would address the identified issues while complying with fundamental principles of the EU legal order.

In order to quantify the costs associated with the implementation of the CBE Directive (Task 5) at national level, in view of assessing its cost-effectiveness, the Evaluation team gathered data on the costs bore by MS for administering, using and maintaining

⁴⁵ The Evaluation team refers to 'failed search' as the state or condition of not being able to access the desired data in the consulted database(s), preventing a Member State from identifying a non-resident offender.

⁴⁶ The TCO of an information system defines the total estimated cost to develop the system, to put it into production, to operate it, to support it, to maintain it, to phase it out at the end.

EUCARIS for the purpose of the CBE Directive; the development and maintenance of a software 'plug-in' application at national level to connect the EUCARIS/CBE application with the national registry of vehicle and driving licence information; the connection between national registries and the EUCARIS/CBE application; and the fulfilment of the required administrative activities to implement the CBE Directive. In addition, the Evaluation team estimated the amount of the effective and potential revenues generated by the enforcement of sanctions for road safety related traffic offences (covered by the CBE Directive) committed by non-resident offenders, based on the number of successful searches made by MS, and made estimates on the amount of speeding fine and payment rate per country. In this regard, the Evaluation team came up with two scenarios: one with the highest amount of fine and payment rate (best case scenario) and one with the lowest amount of fine and payment rate (worst case scenario).

In order to assess the legal consistency of the CBE Directive the Evaluation team looked into the complementarity among the provisions of the Directive itself as well as into the Directive's complementarity with other pieces of EU legislation.

5.1.1 Case studies

In order to perform the contractual tasks and to compensate for data unavailability with regard to enforcement in some Member States, the Team elaborated various case studies.

The applied methodology to the case studies was based on the collection of relevant data in a sample of Member States and on a generalization of the findings for such Member States, in order to assess the impact of the CBE Directive, or the situation of cross-border enforcement, at the EU level. The data to construe the case studies were gathered by means of the stakeholder consultation and of desk research.

The selection of the case studies was carried out with regard to the specific situation of different Member States. Thus, case studies were primarily based on data collected in the so called transit countries, i.e. countries where the number of non-resident road users is likely to be substantial and thus, impacts' measurement of the CBE Directive as well as identification of possible implementation problems were likely to be more straightforward. Account was taken of data availability, i.e. of the fact that the Member States selected for a case study provided all the necessary data or at least confirmed the information gathered by the Evaluation team through desk research.

5.2. Data collection methods

This sub-section aims at describing the data collection methods used during this Study, namely desk research, surveys, interviews and workshops⁴⁷.

These four different data collection methods were indeed triangulated to ensure the validity, reliability, and accuracy of the information/data collected: desk research, surveys, interviews and focus groups.

⁴⁷ A stakeholder meeting was held on 5 October 2015 and a meeting with the Secretary General of TISPOL was held on 6 August 2015.

5.2.1 Desk research

First, desk research on secondary data is the instrument that was used by the Contractor to screen and collect legal, policy and technical information from relevant documentation, in order to obtain a clear picture of the field of study and assess the current situation regarding all issues object of this Evaluation.

The Evaluation team has reviewed and analysed the publicly available statistics on road traffic offences detected on EU roads and on road fatalities and fatal accidents; the national measures transposing the CBE Directive in 25 EU Member States; previous studies on road safety issues; academic books/articles on road safety as well as on harmonisation of criminal and administrative law at the EU level and on the application of the principle of mutual recognition; literature detailing the impact of the introduction of automatic checking equipment on road safety; and the national legislation of some Member States on automatic checking equipment and type-approval procedures.

The list of documents consulted for this Evaluation is provided in Annex 2.

5.2.2 Surveys

Secondly, several surveys were built to collect data from a sample of the population, through a structured, limited set of questions.

A questionnaire addressed to Member States' authorities and a **questionnaire addressed to other relevant transport stakeholders** aimed to gather the opinion, from Member States' public authorities⁴⁸ involved in the enforcement of road traffic rules (such as Ministries of Transports, Interior Ministries, Ministries of Justice and police authorities), national and European NGOs, as well as research centres involved in the road transport sector, on the impacts of the CBE Directive on road safety, on the awareness of EU citizens on the necessity to comply with road traffic rules and on all other issues covered by the Study.

Both questionnaires were distributed via email and also made available online.

For the questionnaires submitted per email, the consultation of stakeholders was carried out as follows. Stakeholders were invited to reply to the questionnaires in writing or in an oral interview. In consideration of the summer break, the Contractor set two different deadlines for replies. One first attempted deadline was set for 3 September 2015. A final deadline was set for 30 September 2015. However, some stakeholders also provided replies during the period October-December 2015. These were still considered in the Evaluation.

The online version of these questionnaires was substantially identical to the questionnaires distributed via email. Minor and not content-related changes in the wording of the questionnaires were made in order to make the survey more user-friendly. They were launched on 10 August 2015, and were made available on EU Survey⁴⁹ and remained open until 30 September 2015. In order to ensure an appropriate response rate, the Evaluation team informed a set of selected stakeholders, that

⁴⁸ Public authorities which, based on the research carried out by the Evaluation team, are either involved in the policy debate concerning road safety and have contributed to such debate in the last years, or have direct experience with the implementation of the CBE Directive.

⁴⁹ <https://ec.europa.eu/eusurvey>.

participated in the past to public debates concerning road safety⁵⁰, of the launch of the online surveys via email. Stakeholders were given the option to reply by phone interview or else in writing to questions.

The list of stakeholders who replied to the above questionnaires is attached to this Report (Annex 4).

In total, the Contractor received 43 written replies to the questionnaires. Of them, only one response came through the online version of the questionnaires. 60% of the responses come from national transport authorities, Interior Ministries and Ministries of Justice of most EU Member States, which have direct experience with issues related to the implementation of the CBE Directive and to the cross-border enforcement of sanctions. Some knowledgeable transport stakeholders also replied such as NGOs, national road safety institutes, road safety associations, insurance associations and academics. While a few of the above transport authorities, interior ministries and other stakeholders could provide detailed quantitative data in their replies, most were able to provide valuable qualitative and more general quantitative inputs.

An extract from the questionnaire addressed to Member State's authorities was also sent to **TISPOL** (European Traffic Police Network) members, requesting their inputs on the questions related to automatic checking equipment used in the EU and on criteria to identify best practices. A total of eight TISPOL members replied, representing Austria, Bulgaria, Germany, France, Hungary, Romania, the Netherlands and Croatia.

An additional **Questionnaire on statistical data** was designed in October 2015 after a first data collection phase in order to collect additional data from MS for the specific purpose of Tasks 2 and 5. This questionnaire targeted Member States' authorities such as Interior Ministries and Transport Ministries. The latter questionnaire indeed aimed at gathering statistics on: (i) the number of road safety related traffic offences committed by resident and non-resident offenders in each Member State, whether automatically or manually detected; (ii) the searches performed using EUCARIS/CBE application, whether successful or not; and (iii) the time spent to perform the administrative activities generated by the CBE Directive. The answers received also served to a lesser extent the purpose to complement responses for Task 1.

In total, the Contractor received answers from eight countries (8), i.e. BE, EE, FR, HU, LV, NL, SK and UK; two of which (2) were however unable to retrieve the specific data requested by the Contractor (i.e. UK and SK). The latter answers were therefore not taken into account in the Evaluation.

Finally, for the first time, a **satisfaction survey** was submitted in October 2015 to MS in order to measure their satisfaction with the EUCARIS/CBE electronic data exchange application and the service provided by RDW/NL, the Dutch Vehicle Authority that was appointed EUCARIS Nominated Party for Operations⁵¹ and EUCARIS Secretariat⁵².

⁵⁰ The identification of such stakeholders was made through desk research.

⁵¹ The NPO has three main tasks: (i) Provide technical support to EU Member States with the operation and the configuration of EUCARIS (mainly the connection of new Member States); (ii) Develop new functionalities (services) to EUCARIS, following specific user groups' requests; and (iii) Provide support and deploy the new functionalities in the user groups having requested them.

⁵² The EUCARIS Secretariat has three main tasks: (i) Deal with the financial matters related to EUCARIS; (ii) Communicate and promote EUCARIS by organising several yearly events/ meetings, including assembly meetings, technical working groups and conferences; and (iii) Deal with legal aspects (e.g. support for any changes/ amendments to the legislation related to EUCARIS and the EUCARIS treaty, more specifically).

The Contractor promoted this survey during the EUCARIS General Assembly held in Paris on 8–9 October 2015 and encouraged the participants of the EUCARIS Assembly to distribute the online survey to the actual users of the EUCARIS/CBE application. In order to ensure stakeholder buy-in, the invitation email was sent to the concerned stakeholders by the EUCARIS Secretariat, after the EUCARIS Assembly, on 20 October 2015. A gentle reminder email was then submitted by the EUCARIS Secretariat on 2 November 2015 to the stakeholders that had not yet replied to the satisfaction survey.

The survey was conducted online and made available on EU Survey⁵³.

In total, the Contractor received 23 answers from Austria, Belgium, Czech Republic, Germany, Denmark, Estonia, Spain, Finland, France, Gibraltar, Croatia, Hungary, Iceland, Island of Jersey, Lithuania, Luxembourg, Latvia, the Netherlands, Poland, Romania, Sweden, Slovakia and UK. While the satisfaction survey was submitted by the EUCARIS Secretariat to all participants of the aforementioned EUCARIS Assembly, the answers from the representatives from Gibraltar, Iceland and the Island of Jersey were not considered in this report, since they are not EU Member States.

The various questionnaires are provided in Annex 3.

5.2.3 Follow-up interviews and bilateral stakeholder contacts

In order to go in depth into the answers received from the surveys and confirm the information collected through the desk research, the Contractor performed oral interviews with a selected set of stakeholders, mostly from Member States' Ministries of Transport, Interior Ministries, Ministries of Justice and Police authorities. These interviews were also the opportunity to increase the quality of the responses received by means of the questionnaires, mainly in terms of qualitative data. In addition, qualitative and quantitative data on enforcement of road traffic rules was collected through follow-up emails addressing the above Member States' public authorities.

An interview was also conducted with RDW/NL in September 2015, including the persons responsible for the EUCARIS Secretariat and the EUCARIS Nominated Party for Operations (NPO) deployed in different Member States. A questionnaire, originally designed to address European Vehicle and Driver Registration Authorities with a specific expertise on the EUCARIS/CBE application, was used as support material for the interview. It is provided in Annex 3. This interview enabled the Evaluation team to gather valuable information on the functionalities of the EUCARIS application, the security and data protection measures ensured by the application, its level of implementation across EU countries and the costs related to the management of EUCARIS interface for each MS.

The Evaluation team also met in August 2015 the Secretary General of TISPOL. Consequently, TISPOL invited the Team to join the TISPOL Council meeting in Manchester on 8 October 2015 to discuss with stakeholders criteria to identify best practices in the automated enforcement of road traffic rules.

Overall, the Contractor carried out 17 oral interviews.

5.2.4 Stakeholder Meeting

Stakeholder consultation was also carried out through the organisation of a Stakeholder Meeting, which took place in Brussels on 5 October 2015. A total of 46 participants were

⁵³ <https://ec.europa.eu/eusurvey/>.

present at that meeting, mostly representing Member States' public authorities with competencies on transport issues but also Member States' Justice Ministries and EU organisations directly involved with transport safety issues.

The following Member States were represented⁵⁴ at the meeting: Austria, Belgium, France, Germany, Italy, Latvia, Luxembourg, Netherlands, Poland, Portugal, Sweden and UK. Academics experts attended the meeting.

The discussion at the Stakeholder Meeting was aimed at seeking the opinion of stakeholders on the preliminary findings of the Study and on the recommendations drafted by the Evaluation team.

In order to prepare the discussion for the meeting, the Contractor provided participants with specific background documents and notably: an input paper; a recommendations paper; a questionnaire specifically designed for the meeting; and six presentations covering all the tasks of this Study. All these documents, as well as the meeting agenda, the meeting minutes and the list of participants to this meeting are available at: <http://www.en.grimaldilex.com/stakeholder-meeting-evaluation-cbe-directive/>.

5.3 Limitations – robustness of findings

The desk research produced a substantial amount of information on the transposition and implementation of the CBE Directive at the national level.

On the other hand, the data collection exercise was impacted by a general lack of interest from stakeholders to contribute to this Evaluation with precise and detailed data and by the inability for them to retrieve the data needed for applying a purely quantitative approach in order to carry out the assessment object of this Evaluation. This lack of interest and/or inability are *inter alia* related to the fact that some data necessary to assess the impact of enforcement initiatives are not gathered by Member States and that the Directive has not yet been implemented in practice by many Member States which, consequently, do not enforce sanctions for road traffic offences against non-resident offenders. A further difficulty is that data on enforcement of road traffic rules are gathered by different local authorities in some Member States and that the latter authorities do not appear to share them with the central authorities. Consequently, statistical data are not available for some Member States.

In addition, the data collection exercise was impacted by the fact that relevant trends of fatalities, accidents and offences could be observed only for a short period of time, notably the year 2014 and, in exceptional cases, in the years 2014-2015. Indeed, Member States have started the implementation of the CBE Directive only in 2014 and data concerning the year 2015 are not yet available in many Member States.

In brief, the non-availability of data concerned:

- i. data/estimates on the number of fatalities and fatal accidents involving non-residents in most Member States for 2015;
- ii. data/estimates on the number of road traffic offences covered by the CBE Directive and committed by non-residents in many Member States;

⁵⁴ Represented is used in a non-legal meaning. The persons attending the meeting were invited to attend the meeting by the Evaluation team in their personal capacity and not in any representative capacity.

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- iii. data/estimates on the number of financial penalties for road traffic offences enforced under the Framework Decision on the application of the principle of mutual recognition to financial penalties;
- iv. estimates on the rate of enforcement of sanctions for road traffic offences under the above Framework Decision;
- v. data/estimates on the number of road traffic offences not covered by the CBE Directive and committed by non-residents;
- vi. data/estimates on the costs of implementation of the CBE Directive and of revenues generated by the payment of fines by non-resident offenders.

That said, the analysis relied on case studies and qualitative opinions of stakeholders with direct experience in the area of road safety and mostly of national authorities providing valuable insight on the enforcement of sanctions for road traffic offences committed by non-resident drivers.

The latter were able to identify application problems but also improvements for the cross-border enforcement of sanctions for road traffic offences useful to enhance the impact of the CBE Directive.

The analysis also relied on scientific arguments, in order to assess the impact of the CBE Directive on fatalities and accidents.

The limited quantitative data gathered, combined with more extensive qualitative information, was deemed sufficient to assess the functioning of the current system for cross-border enforcement of sanctions for road traffic offences. Moreover, it appeared that some detailed data, originally aimed for, were not necessary considering the actual implementation of the CBE Directive and the current legal framework on mutual recognition of financial penalties.

6. CROSS-BORDER ENFORCEMENT OF ROAD TRAFFIC RULES

6.1 Legal tools ensuring the cross-border enforcement of sanctions for road traffic offences

6.1.1 Introduction

The procedure for the enforcement of sanctions for road traffic offences is made up of five different phases: 1) registering an offence; 2) identifying the offender; 3) establishing the offence; 4) sending a penalty notice; and 5) executing the sanction.

In this context, the CBE Directive covers the phase aimed at identifying the owner of a vehicle with which an offence was committed in order to allow Member States to issue a fine and send a penalty notice to the alleged offender resident in another Member State. Thus, the provisions of the CBE Directive complement the provisions of other EU tools and national provisions covering the other enforcement aspects.

This Section provides an overview of the main features of cross-border enforcement of road traffic rules and explains how the mechanism foreseen by the CBE Directive complements other EU rules as well as national enforcement procedures. It explains how the existing tools allow the cross-border enforcement of sanctions for road traffic offences and identifies issues that are not addressed by current EU rules and affect the possibility to enforce sanctions for road traffic offences committed by non-resident offenders.

First, this Section provides a brief and general description of the main features of Member States' road traffic enforcement regimes, in order to illustrate how the provisions of the Directive interact with Member States' rules that set liability regimes for road traffic offences. This description is not exhaustive and detailed but provides some background information useful to understand the main obstacles for Member States in the enforcement of sanctions for road traffic offences against non-resident offenders. The overview is based on the information provided by stakeholders and does not entail a detailed legal analysis of each Member State's liability regime. Such analysis falls outside the scope of this Study.

Second, this Section provides an analysis of the legal and practical implementation of the CBE Directive across Member States.

Moreover, it provides an overview of EU instruments that complement the CBE Directive and are relevant for the cross-border enforcement of sanctions for road traffic offences, notably the Framework Decision on the application of the principle of mutual recognition to financial penalties. This act covers the phase of the cross-border enforcement concerning the execution of a sanction in the State where the offender resides or has property. It covers 39 types of offences (and among them road traffic offences) and facilitates mutual recognition of financial penalties.

The analysis also focuses on international agreements between EU Member States which address issues related to the cross-border enforcement of road traffic rules or in any case foresee cooperation mechanisms which allow national enforcement authorities to cooperate, in view of enforcing sanctions for road traffic offences against non-residents. Some of them foresee an exchange of VRD data between Member States. Thus, their scope overlaps with the one of the Directive. Others go beyond the information exchange and cover, for example, cooperation in investigations aimed at identifying the driver of the vehicle with which an offence was committed.

Such analysis is complemented by a short description of other mechanisms of cooperation between enforcement authorities of EU Member States, and notably joint

operations carried out by the police of more Member States and funded by the European Commission.

Finally, this section provides a concise overview of Member States systems for the automatic enforcement of road traffic rules and assesses whether the current differences in Member States' standards for automatic checking equipment and enforcement practices might impact the application of the CBE Directive, or might limit the scope for its application.

6.1.2 Enforcement of road traffic rules at national level

Member States' road traffic rules as well as sanctions' systems for infringements of road traffic rules vary substantially.

One of the main differences among Member States' liability regimes concerns the identification of the person liable for a road traffic offence.

Some Member States have a simple system of so-called "owner liability". Under a regime of owner liability, the owner of the vehicle is liable and has to pay the fine, regardless of whether he was driving or not when the offence was committed. This implies that the owner of a vehicle is held liable for road traffic offences committed with his/her vehicle and detected by enforcement authorities in accordance with national rules. Italy and the Netherlands are examples of Member States with a regime of owner liability (see Table 2).

Other Member States held the driver of an offending vehicle liable for road traffic offences (regimes of driver liability). However, they send notifications to the owner of the offending vehicle with a request to name the driver. When the owner does not name the driver, he is required to pay the fine. This is the case for France and Belgium.

Some other Member States have a system of so-called "strict driver liability". In general, under these regimes, there is no presumption that the owner of the vehicle is the author of a road traffic offence but enforcement authorities have to provide evidence that the alleged offender was driving the vehicle with which the offence was committed. The identification of the driver is, thus, a precondition for issuing a fine.

Differences also exist across Member States' systems that foresee a strict driver liability regime.

Some regimes, such as UK and Poland foresee for example that enforcement authorities have the power to require the owner of the vehicle with which a road traffic offence was committed to identify the driver. If the owner of the vehicle does not comply with such request, authorities can sanction him. In the UK, the amount of the fine is the same as the one foreseen for the relevant road traffic offences⁵⁵. However, from a legal standpoint the fine imposed by the authorities of such Member State refers to the failure to respond to an information request and not to the committed road traffic offence⁵⁶.

Some other Member States such as Finland, Sweden and Germany have a more complex and strict driver liability regime. Under Swedish and Finnish law, enforcement authorities

⁵⁵ Information provided by the British Ministry of Justice during a phone interview on 19 November 2015.

⁵⁶ This is due to the fact that authorities have no evidence that the owner was driving and, thus, committed the road traffic offence.

have to provide evidence that the alleged offender was the driver of the vehicle with which the offence was committed. They cannot require the owner of the vehicle to identify the driver because this would contradict the privilege against self-incrimination⁵⁷ foreseen by their national legislation⁵⁸.

When a road traffic offence is personally detected by enforcement authorities, notably when the latter authorities stop the offending vehicle at the roadside, the identification of the driver does not pose particular problems. Conversely, when an offence is detected automatically (or manually but without stopping the vehicle), enforcement authorities of Member States with regimes such as the Swedish, the Finnish or the German ones cannot legally issue a fine if they do not have evidence of who the driver was.

It is important to point out that the rules on liability are expressions of constitutional principles of some Member States, and notably of principles such as the presumption of innocence. This implies that they cannot be easily amended in order to facilitate the application of investigation tools and the more efficient enforcement of road traffic rules.

Differences in liability regimes have also influenced enforcement practices at the Member States' level. Indeed, many Member States with a strict driver liability regime have opted for devices that not only take a picture of a vehicle number plate but also one of the offending vehicle's driver.

Member States with regimes of owner liability and Member States with regimes of non-strict driver liability have the tendency to use automatic devices that take only picture of the number plate of a vehicle.

Other Member States (such as the UK) use devices that take pictures of the number plate of the offending vehicle, since the legal system allows compelling the owner of an offending vehicle (who resides in the UK) to identify the driver. Thus, despite the fact that the UK has a system of strict driver liability, the UK enforcement authorities are not requested to provide the identification of the driver in order to issue a fine.

⁵⁷ The privilege against self-incrimination forbids the government from compelling any person to give testimonial evidence that would likely incriminate him or her during a subsequent criminal case.

⁵⁸ Information provided during two phone interviews by the Finnish Legal Register Center, on 23 October 2015, and by Swedish police, on 25 November 2015.

Table 2 provides an overview of the liability regimes of Member States and specifies whether the identification of the driver is a precondition for issuing a fine under national rules. This Table is based on the information gathered by stakeholders.

The Table shows that while most Member States' regimes allow for the sanctioning the owner of the vehicle for road traffic offences and do not require the identification of the driver as a precondition for the issue of a fine, a few Member States hold as a requirement the identification of the driver in order to issue a fine for road traffic offences. Where the information was not available the Team stated N/P (information not provided).

As explained in this Section below, differences in liability regimes among Member States, with regards to the identification of the offender, might affect the application of the CBE Directive in other Member States. In fact, the authorities of some Member States will need to complement the information on the vehicle registration data exchanged under the CBE Directive with information allowing the identification of the driver, in order to issue a fine for a road traffic offence covered by the CBE Directive.

Table 2 Overview of Member States' liability regimes for road traffic rules: identification of the driver as a precondition to issue a fine for a road traffic offence

COUNTRY	Is the identification of the driver a pre-condition to impose a fine?
AT	No
BE	No
BG	No
CY	N/P
CZ	N/P
DE	Yes
DK	N/P
EE	No
EL	Yes
ES	No
FI	Yes
FR	No
IE	No
IT	No
LV	N/P
LT	N/P
LU	N/P
HR	No
HU	No
MT	N/P
NL	No
PL	Yes, but the owner can be fined for failure to reply to a request concerning the identity of the driver
PT	No
RO	N/P
SE	Yes
SI	No
SK	No
UK	Yes, but the owner can be fined for failure to reply to a request concerning the identity of the driver ⁵⁹

Note: N/P stands for information not provided.

A further difference across Member States' liability regimes concerns the qualification of road traffic offences as criminal or administrative offences and the different procedures followed by enforcement authorities in order to impose and review fines for road traffic offences.

⁵⁹ Under Section 172 of Road Traffic Act 1988.

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Criminal offences are indeed often imposed further to criminal proceedings and administrative offences are imposed pursuant to administrative proceedings. This also implies that the competence to impose/review a sanction for road traffic offences is conferred in some Member States to criminal courts and in other Member States to administrative courts or authorities.

Differences exist across Member States regarding the rules that criminal and administrative courts follow in order to exercise their jurisdictional powers. Notably, national rules may vary as to which procedural rights are granted to alleged offenders before administrative courts or criminal courts.

Many Member States also have a mixed regime, insofar that some offences are qualified as administrative and others as criminal. Some Member States have a double qualification, meaning that the same road traffic offence is qualified as administrative in some cases and as criminal when some conditions are met. Table 3 below provides an overview of how Member States qualify road traffic offences.

Table 4 provides an overview of some aspects of the proceedings for road traffic offences. The table clarifies which authorities are competent to issue/review sanctions for the road traffic offences covered by the CBE Directive as well as some aspects of the proceedings that the Evaluation team deemed useful to understand the extent to which, in case the alleged offender decides to challenge a sanction, he/she is granted the right to a fair trial. The Evaluation team notes that most Member States foresee review procedures for sanctions for road traffic offences where the offender can challenge legal aspects and factual elements, thus is entitled to have a full review of his/her case. However, the Evaluation team notes a substantial variation across Member States in the time limit for the challenging of a fine for road traffic offences. Consequently, it is controversial whether the defence rights granted to alleged road traffic offenders in the context of enforcement procedures for road traffic offences can be considered equivalent across EU Member States.

The Evaluation team further explains below how the different legal qualifications of road traffic offences and their impact on the procedural rules applicable to enforcement procedures might have hindered the current functioning of the Framework Decision on the application of the principle of mutual recognition to financial penalties. Indeed, the mutual recognition of financial penalties is based on mutual trust among Member States with regard to the respect of fundamental procedural rights in the proceedings leading to the adoption of decisions on financial penalties that have to be mutually recognized.

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Table 3 Qualification of road traffic offences in MS⁶⁰

Traffic offences	AT	BE	BG	CY	CZ	DE	DK ⁶¹	EE	EL	ES	FI	FR	IE	IT	LV	LT	LU	HR	HU	MT	NL	PL	PT	RO	SE	SI	SK	UK
Speeding	A	M	A	A	A	A	C	C	A		C	C	M	A	A	A	A	A	A	C	M	C	A	A	C	A	A	C
Non-use of a seat-belt	A	M	A	A	A	A	C	C	A	A	C	C	M	A	A	A	A	A	A	C	A	C	A	A	C	A	A	C
Failing to stop at a red traffic light	A	M	A	A	A	A	C	C	A	A	C	C	M	A	A	A	A	A	A	C	A	C	A	A	A	C	A	C
Drink-driving	M	M	M	A	A	M	C	C	M	M	C	C	M	C	A	A	C	A	M	C	C	C	M	M	C	C	M	C
Driving under the influence of drugs	M	M	M	A	A	M	C	C	C	M	C	C	M	C	A	A	C	A	M	C	C	C	M	M	C	C	A	C
Failing to wear a safety helmet	A	M	A	A	A	A	C	C	A	A	C	C	M	A	A	A	A	A	A	C	A	C	A	A	A	C	A	C
Use of a forbidden lane	A	M	A	A	A	A	C	C	A	A	C	C	M	A	A	A	A	A	A	C	A	C	A	A	A	C	A	C
Illegally using a mobile telephone or other devices	A	M	A	A	A	A	C	C	A	A	C	C	M	A	A	A	A	A	A	C	C	C	A	A	A	A	C	C

Note: 'C' stands for 'Criminal'; 'A' stands for 'Administrative'; and 'M' stands for 'Criminal/ Administrative'.

⁶⁰ Information provided by Member States' authorities in oral interviews with the Evaluation team or via email.

⁶¹ In principle traffic offences are criminal cases, but they are settled administratively by the police: http://ec.europa.eu/transport/roadsafety_library/publications/traffic_rules/reports/annex_01_country_reportsfinal_chapters_01_06.pdf

Table 4 Overview of enforcement regimes in the EU⁶²

COUNTRY	COMPETENT AUTHORITY FOR IMPOSING FINES	RIGHT TO BE HEARD BEFORE THE FINE IS IMPOSED	RIGHT TO BE HEARD IN THE APPELLATE PROCEDURE	TIME LIMITS FOR CHALLENGING A FINE	ASPECTS REVIEWED BY THE APPELLATE COURT
AT	Administrative authorities ⁶³	NO	YES	2 WEEKS	Facts and legal
BE	Public Ministry	YES	YES	15 DAYS	Facts and legal
BG	Administrative authorities	NO	YES	2 WEEKS	Facts and legal
CY	Administrative authorities; district courts	Yes, if deny committing offence	YES	N/P	Facts and legal
CZ	N/P	N/P	N/P	N/P	N/P
DE	Other bodies;	Yes	Yes	14 days	Facts and legal
DK	N/P	N/P	N/P	N/P	N/P
EE	Other bodies	Yes	Yes	15 days	Facts and legal
EL	Other bodies	Yes	Yes	3 days	Facts and legal
ES	Other bodies	Yes	N/P	20 days	Facts, evidence and legal aspects
FI	a)Police; b)Public prosecutors; c)Local District Courts	Yes	Yes	7 days	Facts, evidence and legal aspects
FR	Other bodies	No	Yes	30 days	Facts and legal
IE	a)District Court; b)Circuit Court	Yes	Yes	14 days	Facts and legal
IT	Other bodies	No	Yes	60 days – Prefetto; 30 days -Giudice di Pace	Facts and legal
LV	Administrative authorities	N/P	N/P	30 days	Facts and legal

⁶² Information provided by Member States' authorities in oral interviews with the Evaluation team or via email.

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COUNTRY	COMPETENT AUTHORITY FOR IMPOSING FINES	RIGHT TO BE HEARD BEFORE THE FINE IS IMPOSED	RIGHT TO BE HEARD IN THE APPELLATE PROCEDURE	TIME LIMITS FOR CHALLENGING A FINE	ASPECTS REVIEWED BY THE APPELLATE COURT
LT	Administrative Court	Yes	Yes	10 days	Facts and legal
LU	N/P	N/P	N/P	N/P	N/P
HR	Other bodies	Yes	Only if a prison sentence is imposed.	8 days	Facts and legal
HU	N/P	No	Yes	N/P	Facts and legal
MT	a)Regional Committees; b)Local Councils; c)Local Tribunals	No	Yes	N/P	N/P
NL	Other body	Yes	Yes	6 weeks	Facts and legal
PL	Administrative authority (District Court)	No	Yes	7 days	Facts and legal
PT	ANSR (Autoridade Nacional Segurança Rodoviária) (Administrative body)	Yes	Yes (Judicial Court)	15 days	Facts and legal
RO	Administrative body	No	Yes	15 days	Facts and legal
SE	District court (criminal court)	Yes	Yes	N/P	N/P
SI	Courts and other bodies ⁶⁴	No	Yes	8 days	Facts and legal
SK	Other bodies; Criminal Court (if the offence is considered as a crime.	Yes	Yes	15 days	Facts and legal
UK	Traffic Penalty Tribunal for minor offences and Crown Court/Magistrate Court for more serious offences	Yes	Usually handled by post but can request face-to-face or telephone hearing	28 days	Facts and legal

Note: N/P stands for information not provided.

6.1.3 The CBE Directive

The CBE Directive covered an important gap in the enforcement chain since it has enabled the information exchange needed to identify the owner of a vehicle, and possibly the offender, in cases when a road traffic offence committed with a vehicle registered in a Member State is detected automatically (or in any case without stopping a vehicle) in another⁶⁵.

It covers the main offences that are likely to be detected automatically in many Member States of the EU and represent the main causes of road deaths and serious injuries in the EU, such as speeding, non-use of seat belts and illegal use of mobile phones and other means of communication while driving. In addition, it covers offences that are likely to be committed by non-resident drivers as demonstrated by the fact that in Hungary 99% of the offences committed by non-residents are speeding offences and that in Belgium, around 80% of the offences committed by non-residents are covered by the CBE Directive⁶⁶ (Indicator N° 20).

The CBE Directive also covers offences that can only be detected if the vehicle is stopped, and once the driver has been identified, such as drink- and drug-driving. The consultation with stakeholders confirmed that the mechanism put in place by the Directive cannot be applied for the enforcement of drink and drug-driving and for all the other offences that can be detected only when the vehicle is stopped and the driver identified. In addition the vast majority of the stakeholders consulted and had an opinion on the scope of the CBE Directive confirmed that drink- and drug-driving should thus be left outside of the scope of the CBE Directive since the VRD exchange does not improve the cross-border enforcement of sanctions for such offences⁶⁷ (Indicator N° 29). The Directive might instead have a limited utility for those offences which are not detected automatically, but whose detection does not require stopping the vehicle such as dangerous overtaking or not keeping a safe distance⁶⁸.

The CBE Directive complements EU road safety measures which address other factors compromising road safety, such as: the driving skills of drivers and the training of professional drivers; the compliance of vehicles with safety standards; the transport of dangerous goods; the quality of road infrastructure and the use of modern technology in case of accident. Such measures are listed in Annex 6. The list is not exhaustive.

The Directive complements such provisions to the extent that it covers cross-border-enforcement, an area affecting positively road safety not covered by such measures and to the extent that it pursues objectives that are coherent with the objectives of the above measures, i.e. reducing road fatalities and improving road safety.

In addition, the Evaluation team did not identify provisions of the CBE Directive that conflict with the provisions of the above measures or definitions foreseen by the CBE Directive that are not in line with the definitions foreseen in the above measures.

Furthermore, the Directive complements projects that are funded or co-funded by the EU and address specifically cross-border enforcement issues.

⁶⁵ ETSC, Enforcement in the EU – Vision 2020: <http://etsc.eu/road-safety-enforcement-in-the-eu-vision-2020/>.

⁶⁶ Information provided by Belgian and Hungarian authorities.

⁶⁷ This conclusion is confirmed by most of the stakeholders consulted.

⁶⁸ Some stakeholders identified dangerous overtaking and not keeping a safe distance as offences that should be added to the scope of the Directive, see Section 6.5.

One of them is the TISPOL STRIDER Project 1 March 2015 - 28 February 2017⁶⁹ which will be discussed below and aims also at improving the cooperation of enforcement authorities of different Member States.

6.1.3.1 Legal and practical implementation of the CBE Directive

The CBE Directive was transposed, albeit at times with delays, by all Member States to which it applied from the date of entry into force (namely, all Member States with the exception of Denmark, the UK and Ireland, which did not take part in its adoption).

Following the adoption of the CBE Directive under the correct legal basis (see Section 2) EU Member States had to transpose it into their national law by May 2015. Three countries, the UK, Ireland and Denmark, have a later transposition deadline of May 2017 due to the fact that they were not originally due to transpose the CBE Directive by November 2013 because they had decided to opt out from its adoption pursuant to EU law.

The Evaluation team also analysed the legal transposition of the CBE Directive mostly in order to understand to which extent the impacts of the CBE Directive can be measured at this stage (only two years on) since small delays or lack of transposition of some of its provisions might have affected its impact on road safety.

In fact, some Member States transposed certain provisions of the CBE directive (i.e. provisions concerning the exchange of information under Article 4 of the CBE Directive or the content of the information letter pursuant to Article 5 of the CBE Directive) in a very detailed fashion, while other Member States transposed the same provisions in a generic way to the extent that the transposition is at times unclear or partial.

Notably, while some Member States identified National Contact Points in the legislation, others do not specify these National Contact Points in the transposition measures. Furthermore, while some Member States expressly refer to EUCARIS, others do not make any reference to this interface in the analysed legislation.

In addition, while some Member States adopted provisions on awareness pursuant to Article 8 of the CBE Directive, expressly mentioning in their transposing legislation the compulsory aspect of information to road users in accordance with the CBE Directive, other Member States do not make an express reference to Article 8 of the CBE Directive.

Finally, and most importantly for the purpose of our analysis, in many Member States the provisions transposing the CBE Directive entered into force with delays. Only few Member States transposed the CBE Directive by November 2013.

The Evaluation team also assessed the practical implementation of the Directive. A major issue with such implementation is related to the fact that many Member States are not connected to EUCARIS and thus in practice do not allow authorities of other Member States to carry out searches in their VRD aimed at the identification of the owner of a vehicle registered in their State. In 2014, a total of 11⁷⁰ Member States were not connected to EUCARIS, against seven in 2015. This factor was identified by the majority

⁶⁹ Call for proposals – MOVE/C4-2013/122-2, The Cross Border Enforcement Directive, EU Road Safety Policy Orientations and the TISPOL Strategy 2015- 2017.

⁷⁰ In addition to UK, IE and DK.

of stakeholders as a major problem with the implementation of the Directive (more than 90%).

In addition, the analysis also found out that only eight Member States have been concretely using the system for the exchange of information put in place by the Directive in 2014 and carried out searches aimed at identifying non-resident offenders⁷¹, i.e. have carried out outgoing searches.

Such Member States are: Austria, Belgium, Bulgaria, France, Germany, Hungary, Lithuania and Poland.

Austrian authorities refer that the information exchange under the CBE Directive is fully operational since September 2015 in Austria. Based on information provided in autumn 2015 the system was not operative for example in Estonia and Slovenia⁷² (see Section 6.2).

The Netherlands mentioned that their system allows other Member States connected to EUCARIS to access their VRD but due to technical reasons (not related to EUCARIS but related to the features of their system) they exchange data through EUCARIS/CBE application only with Germany, France and Belgium. This implies that they follow-up only offences committed by German, Belgian and French residents (i.e. committed with vehicles registered in Germany, Belgium and France)⁷³.

As to 2015, based on the available information, 18 EU Member States got connected to the EUCARIS/CBE application by the end of the year, i.e. started allowing other Member States' national contact point access to their data relating to vehicles, owners and holders of the vehicle in question, with the power to conduct automated searches.

In brief, the practical implementation of the Directive remains unsatisfactory at the EU level due to the fact that Member States have not taken all the necessary steps to make the VRD exchange work. This is further illustrated in Section 6.2 which assesses the functioning of EUCARIS and its effectiveness.

The stakeholder consultation did not identify major legal problems with the implementation of the Directive and, consequently, the Evaluation team concluded that there are not provisions of the Directive that are difficult to implement or give rise to unnecessary problems. Indeed the majority of the stakeholders consulted stated that there are no problems with the implementation of the CBE Directive. A minority was able to identify as problems some technical issues that should be possible to solve by adapting the appropriate technical tools. One of the identified problems is of a very practical nature and relates to the implementation of Article 5, requiring Member States to provide the information letter in the language of the alleged offender⁷⁴ and to the related translation costs. This problem concerns a limited number of Member States, i.e. those that cannot use the template provided in an Annex to the Directive and already

⁷¹ This conclusion was drawn by the Evaluation team triangulating data provided by Member states to the Commission and notably reports ex Article 6 of the CBE Directive on searches carried out through EUCARIS, replies provided by Member States and information provided by the EUCARIS Secretariat. See Section 6.2.

⁷² Reply provided by Estonian Police Reply provided by Slovenian Ministry of Infrastructure.

⁷³ Reply provided by the Dutch Ministry of Security and Justice.

⁷⁴ I.e. the language of the registration document, if available, or in one of the official languages of the Member State of registration. Translation problems have been identified as an issue by Belgian authorities in an interview held on 28 September 2015 and by Dutch authorities in oral interviews held on 30 September 2015. Such problems have been also raised in the replies provided by such authorities.

translated in all official languages of the EU. However, the Evaluation team found that translation issues should not be identified as a problem but as a necessary cost to bear in order to allow the mechanism put in place by the Directive to work.

Based on the information provided by Dutch authorities another practical problem with the implementation of the CBE Directive is that the available technical tools do not allow recognizing automatically the country of the number plate and this implies that sometimes searches are carried out in the VRD of the wrong Member State⁷⁵.

However, this was not identified as a problem by authorities of other Member States.

Other factors identified as problems with the implementation of the Directive are related to its limited scope and notably to the fact that it does not cover the cooperation between authorities of Member States aimed at serving documents to alleged offenders. This implies that if the data included in the VRD of one Member State are not accurate and the address of the alleged offender is not correct, the authority of the State where the offence is committed will not be in the position to send an information letter to the correct address of the alleged offender⁷⁶.

Differences in regimes of liability for road traffic offences of Member States have also been identified as obstacles to the implementation of the Directive by Member States' authorities as well as by legal road safety experts. Indeed, some Member States' authorities refer that their enforcement authorities do not carry out searches under the CBE Directive because under national rules identifying the driver is a precondition for issuing a fine.

The Evaluation team found that differences in the liability systems of Member States are not exactly obstacles to the implementation of the CBE Directive. Indeed the latter does not cover all the phases of the cross-border enforcement of sanctions for road traffic offences. In addition, its main objective is allowing access to VRD of other Member States and not requiring MS to impose fines on non-residents. Instead, the Team found out that differences in liability regimes of Member States are factors that may inhibit the impact of the Directive on road safety and the consistent enforcement of road traffic rules across the EU. The same is true with regard to the serving of documents to the alleged offender.

Finally, as to the practical implementation of the CBE Directive, only a minority of stakeholders (2% of the consulted stakeholder) maintained that the exchange of information bore impacts not related to road safety as, for example, the improvement of cooperation among police authorities across Member States in the fight against crime⁷⁷ (Indicator N° 3). On this respect the Evaluation team concluded that, since the implementation of the Directive is relatively recent, the only viable forecast is that the CBE Directive should positively affect the cooperation between police forces of Member States but there are no evidences of an alleged improved cooperation in the fight against crime.

⁷⁵ Reply provided by the Dutch Ministry of Security and Justice.

⁷⁶ Information provided by Austrian Interior Ministry in a phone interview on 20 October 2015.

⁷⁷ Notably Belgian Federal Public Service Mobility And Transport.

6.1.4 *The Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties for the enforcement of sanctions for road traffic offences*

At the EU level, the provisions of the CBE Directive, as an investigative tool, are complemented by the Council Framework Decision (FD) 2005/214/JHA which applies the principle of mutual recognition to financial penalties, enabling a judicial or administrative authority to transmit a financial penalty directly to an authority in another EU country in order to have it recognised and executed without any further formality. The principle applies to all offences in which financial penalties can be imposed and dual criminality checks are abolished in relation to 39 listed offences (e.g. participation in a criminal organization, terrorism, trafficking in human beings, rape, theft, road traffic offences, etc.). The procedure applies in circumstances where a fine is imposed on a person who is not a resident of the EU country where the offence was committed, fails to pay the fine and then leaves the territory of that country. The penalties must be imposed by the judicial or administrative authorities of the Member States and this decision must be final, i.e. there is no longer any possibility to appeal the decision.

Understanding the notion of the decision under the Framework Decision is crucial for understanding its scope. A decision, imposing financial penalties must be recognized and enforced in other Member States, if it is final and if it was made by:

- (i) *a court of the issuing State in respect of a criminal offence under the law of the issuing State;*
- (ii) *an authority of the issuing State other than a court in respect of a criminal offence under the law of the issuing State, provided that the person concerned has had an opportunity to have the case tried by a court having jurisdiction in particular in criminal matters;*
- (iii) *an authority of the issuing State other than a court in respect of acts which are punishable under the national law of the issuing State by virtue of being infringements of the rules of law, provided that the person concerned has had an opportunity to have the case tried by a court having jurisdiction in particular in criminal matters;*
- (iv) *a court having jurisdiction in particular in criminal matters, where the decision was made regarding a decision as referred to in point (iii).*

Thus, based on the FD, financial penalties imposed in connection to administrative or criminal offences can be mutually **recognized to the extent that either the Court imposing them is a court having jurisdiction in criminal matters, or the fine can be challenged before a court having jurisdiction in criminal matters.** A definition of this concept is provided by the judgment of European Court of Justice in the Baláž-case⁷⁸. This case law has clarified that the FD allows the mutual recognition of financial penalties for criminal and administrative offences assuming that some conditions are met.

Notably, in such case the Court of Justice has clarified that a Court having jurisdiction in particular in criminal matters is a Court that applies specific procedural rules that guarantee specific defence rights of the alleged offender. Notably, the Court stated: "*Court having jurisdiction in particular in criminal matters', set out in Article 1(a)(iii) of Council Framework Decision 2005/214/JHA [omissis] is an autonomous concept of Union law and must be interpreted as covering any court or tribunal which applies a procedure that satisfies the essential characteristics of criminal procedure".*

⁷⁸ JUDGMENT of 14 November 2013, Case C-60/12, published in the electronic Reports of Cases, available at: <http://curia.europa.eu/juris/liste.jsf?td=ALL&language=en&jur=C,T,F&parties=Balaz>.

Based on a reading of the Judgement and of the Opinion of its Advocate General,⁷⁹ a procedure that satisfies the essential characteristics of criminal procedure is that compliant with Article 6⁸⁰ of the ECHR (European Court of Human Rights) and with the EU Charter of Fundamental Rights Charter, i.e. a procedure held before a body which is established by law and which is independent and impartial and ensures that the following guarantees are respected. The accused must: be presumed innocent until proven guilty according to law; be promptly informed in a language which he understands and in detail, of the nature and cause of the accusation against him; have adequate time and facilities for the preparation of his defence; be entitled to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require; be entitled to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; and have the free assistance of an interpreter if he cannot understand or speak the language used in court.

In conclusion, the Framework Decision allows for the mutual recognition of administrative and criminal financial penalties as far as the alleged offenders had the opportunity to have such fine reviewed in a trial that can be qualified as fair pursuant to EU law.

The legal implication of the Baláž judgement for the cross-border enforcement of road traffic rules is that Member States' authorities should assess the safeguards granted to alleged offenders in national enforcement procedures, in order to establish whether financial penalties for road traffic offences can be mutually recognized under the Framework Decision.

Against this background, Section 6.1.4.1 provides an assessment of the extent to which the Framework Decision ensures the execution of sanctions for road traffic offences. The section takes into account the consulted stakeholders' opinions and assesses such opinions in the context of the above legal framework.

6.1.4.1. Application of the Framework Decision 2005/214/JHA in the enforcement of financial penalties for road traffic offences

The Evaluation team assessed the application of the Framework Decision and notably whether the latter ensures the successful execution of financial penalties for road traffic offences.

It realised that the FD is not used in a substantial number of cases concerning sanctions for road traffic offences. The vast majority of consulted stakeholders who had experience with the Framework Decision (more than 90%) confirmed such assessment.

Some Member States were able to provide estimates on the enforcement rate for incoming and outgoing requests concerning financial penalties for road traffic offences under the Framework Decision, i.e. respectively requests of execution transmitted by other Member States and requests of execution transmitted by their own Member State.

Specific data on penalties for offences covered by the CBE Directive were not provided.

⁷⁹ Opinion of advocate general Sharpston delivered on 18 July 2013, Case C-60/12.

⁸⁰ Right to a fair trial.

The German Federal Office of Justice mentioned that the enforcement rate is 38% for outgoing requests⁸¹ and 56% for incoming requests. The vast majority of cases received under the FD (over 98%) came from the Netherlands, a country with which Germany had a bilateral informal agreement allowing the exchange of VRD before the entry into force of the CBE Directive⁸².

Based on the information provided by the UK Ministry of Transport the enforcement rate under the Framework Decision is 80% for outgoing requests and 90% for incoming requests. However, these data refer to enforcement requests concerning all financial penalties and not only those for road traffic offences⁸³.

That said, the Evaluation team assessed that the application of the Framework Decision, as a tool for the cross-border enforcement of sanctions for road traffic offences, is very low according to a comparison between the relatively small number of sanctions enforced under the FD (around 9,000 for all road traffic offences per year in the best case scenario, i.e. Germany) and the great number of road traffic offences that are committed by non-residents in the EU.

With reference to the number of road traffic offences committed by non-resident drivers and the overall number of financial penalties enforced under the Framework Decision, the Evaluation team concluded that the overall rate of enforcement of road traffic penalties ensured by the Framework Decision varies from 0 to 1%.

In order to confirm such findings, the Evaluation team considered a case study and assessed the impact of the FD based on a notion of enforcement rate that takes into account the real condition of cross-border enforcement at EU level. Notably, the Evaluation team applied a notion of enforcement rate taking into account the number of offences committed by resident drivers of Member State A in other Member States and the number of enforcement requests received by Member State A under the Framework Decision. The Evaluation team used Germany as case study, a country where the FD is implemented in an effective way.

A second case study assessed to what extent Germany enforces sanctions for road traffic offences under the Framework Decision. This case study showed that, in Germany, the enforcement rate of sanctions for road traffic offences is close to 0.

⁸¹ Information provided by email of 17 November 2015.

⁸² This suggests that the fact that Member States exchange VRD is a precondition for the recourse to the Framework Decision for the enforcement of sanctions for road traffic offences against non-residents.

⁸³ Reply by the UK Ministry of Transport.

⁸⁴ The above finding confirms also the findings of a previous study (Draft final report produced by Matrix Insight and Andersson Elffers Felix for the Study for Elements of the Impact Assessment on the Framework Decision 2005/214/JHA on the Application of the Principle of Mutual Recognition to Financial Penalties (FD) in the context of the multiple framework contract JLS/2009/A1/001) that concluded that the comparatively lower rate of successfully executed cross-border financial penalties under the Framework Decision shows that there are still problems related to the execution of cross-border financial penalties for infringements of road traffic rules. Such report calculated that since the adoption of the FD in 2005, an estimated 7,000 decisions have been issued across the EU on the basis of the FD; however, only about 42% of those have been successfully executed. Evidence from the report suggests that, on average, the rate of successful execution of cross-border financial penalties is much lower than the rate of successful execution of domestic penalties (74.11% against 41.43%).

6.1.4.2 General obstacles to the effective application of the Framework Decision 2005/214/JHA

The Evaluation team looked into the possible reasons according to which the Framework Decision does not seem to ensure the execution of a great number of sanctions for road traffic offences and many Member States simply refrain from transmitting requests of enforcement to other Member States under the Framework Decision.

Stakeholder consultation as well as desk research allowed to identify the major obstacles in the application of the mutual recognition principle provided by the Framework Decision to financial penalties for road safety related traffic offences.

It allowed for the conclusion that such application is hampered by practical as well as legal barriers.

The main obstacle to the application of the Framework Decision seems to be that its procedure is burdensome and somehow not suitable for processing a potentially great number of cases, i.e. more than 100,000 cases on a yearly basis. Indeed, the majority of the stakeholders consulted, representing *inter alia* Austria⁸⁵, Belgium⁸⁶, the Netherlands⁸⁷, France⁸⁸ and Germany⁸⁹, expressed such concern. This is further detailed below.

One significant legal barrier to the successful execution of cross-border financial penalties under the Framework Decision is related to the currently existing differences across EU Member States' normative qualification of road safety related offences and their impacts on national enforcement procedures and the safeguards granted to alleged offenders.

Indeed, based on the findings of our analysis, the main issue with the application of the Framework Decision is that the procedural rules – and related procedural rights – applicable for the review of sanctions for road traffic offences (often related to the discrepancies in national qualifications of road traffic offences) may limit the applicability of the Framework Decision's mechanism for the mutual recognition of financial penalties for road traffic offences, and ultimately hinder the cross-border execution of sanctions for road traffic offences.

In fact, under EU law, mutual recognition of financial penalties can only occur when the offender is at least granted the right to appeal a decision before a body where a series of specific procedural guarantees – namely: the right to interpretation and translation, the right to information about rights, the right to legal advice and legal aid before and at trial, and the presumption of innocence – apply (see for details C – Baláž).

As a consequence, mutual recognition of financial penalties cannot take place when the decision is adopted by a judicial or administrative authority of a Member State which

⁸⁵ Ministry of the Interior of Austria, interview of 20 October 2015.

⁸⁶ Opinion provided by representatives from Belgian SPF Mobilité et Transport, meeting held on 28 September 2015.

⁸⁷ Reply provided by Dutch Ministry of Justice.

⁸⁸ Opinion provided by French Interior Ministry, phone interview of 15 September 2015.

⁸⁹ Opinion provided by the German Ministry of Justice during the Stakeholder Meeting organized by the Evaluation team.

does not foresee the above-mentioned minimum procedural guarantees. In other words, mutual recognition under the FD cannot be granted when the competence to impose a financial penalty in the State of the offence is entrusted upon a jurisdictional or administrative authority which is not required to respect the above mentioned procedural standards.

Against this background, the analysis noted that not all Member States maintain that their foreseen procedures for the review of sanctions for road traffic offences are equivalent to criminal procedures and this holds back many Member States from requesting enforcement of their decisions under the FD (e.g. Spain, Latvia).

For example Spanish⁹⁰ and Latvian⁹¹ authorities affirm that sanctions for road traffic offences imposed by national authorities and reviewed by the competent national authorities cannot be mutually recognized under the Framework Decisions because, under national law, road traffic offences are administrative offences.

In conclusion, while a legal analysis of all Member States' proceedings for the review of road traffic offences is outside the scope of this Study, based on the replies provided by stakeholders, the Evaluation team inferred that some EU Member States do not try to enforce sanctions for road traffic offences against non-residents under the Framework Decision for the following reasons:

1. National proceedings for road traffic offences are not equivalent to criminal proceedings in term of procedural rights granted to offenders; or
2. Member States have not assessed whether the national proceeding for road traffic offences are equivalent to criminal proceeding in term of procedural rights granted by offenders and (wrongly) believe that the decisions imposing financial penalties issued by their administrative authorities cannot be enforced under the Framework Decision.

Furthermore, the Team construed, based on the overview of the standing differences between Member States' qualifications of road safety related offences and on the variation of the applicable rules for the review of related financial penalties described in Section 6.1.1, that it is controversial whether the procedural guarantees granted to offenders in proceedings, concerning the review of sanctions for road traffic offences, can actually be argued as equivalent to criminal proceedings in all Member States.

Thus, there are good grounds to believe that, from a legal standpoint, not all Member States can legally enforce financial penalties for road traffic offences imposed by their enforcement authorities in other Member States under the Framework Decision. A detailed legal analysis should be carried out in order to address and clarify such issues.

6.1.4.3 Specific obstacles to the application of the Framework Decision

⁹⁰ Information provided by a representative from the Spanish Interior Ministry during the Stakeholder Meeting organized by the Evaluation team and in Spanish Interior Ministry reply to our questionnaire.

⁹¹ Information provided by Latvian Ministry of Transport.

In addition to the problems identified above, other obstacles to the successful execution of cross-border financial penalties under the Framework Decision include⁹²:

- a) **Procedural issues:** patchy transposition of the FD; difficulties in identifying national authorities and in transmission of decisions; time limit for execution; mode of confirmation.
- b) **Substantial issues:** translation of certificates; recognition of decisions; obligatory grounds for refusal; additional grounds; execution of decisions; €70 bottom threshold.

In accordance with its Article 20, the Framework Decision should have been implemented by 22 March 2007. In 2008, the Commission published a report on the implementation of the FD⁹³. The 2008 report showed that not all the EU countries were compliant with its basic provisions⁹⁴. Based on notifications communicated by Member States to the General Secretariat as of 4 June 2015, Greece, Ireland and Italy notified no transposing measure for the Framework Decision. In this respect it should be pointed out that the FD was adopted under the Third Pillar and this implied that the Commission could not open infringement proceedings against Member States which had not or wrongly implemented the Framework Decision.

As of the coming into force of the Lisbon Treaty, the *status quo ante* regarding preliminary rulings and enforcement proceedings were preserved for a transitional period of five years although this transitional period ceases to apply to framework decisions which were amended after the entry into force of the above Treaty. After the transitional period has expired on 30 November 2014, preliminary rulings and infringement proceedings have become viable. Thus, it can be foreseen Member States will eventually comply with the provisions of the FD, as the Commission has now the power to ensure a consistent implementation of such FD. So far the Commission has not opened any infringement proceeding against MS.

Furthermore, considerable variation in the implementation of the Framework Decision exists across the Member States in that:

- not all Member States have identified a central authority because
 - they have a completely decentralised system;
 - they have not transposed the FD;
 - they have not transposed the FD correctly;
- central authorities play very different roles across the Member States;

⁹² Draft final report produced by Matrix Insight and Andersson Elffers Felix for the Study for Elements of the Impact Assessment on the Framework Decision 2005/214/JHA on the Application of the Principle of Mutual Recognition to Financial Penalties (FD) in the context of the multiple framework contract JLS/2009/A1/001.

⁹³ COM (2008), Report from the Commission on the Application of 2005/214/JHA on the Principle of Mutual Recognition to Financial Penalties.

⁹⁴ The nature and the purpose of the Commission's 2008 Report was limited to an evaluation of the transposition measures taken by the eleven Member States.

- there is little awareness about who the national central authorities are⁹⁵.

Substantial issues

The translation of certificates was identified as an issue by a 2011 report assessing the implementation of the Framework Decision⁹⁶ ("2011 report"), and is still considered a major issue by the stakeholders consulted by the Evaluation team in the context of this Evaluation.

Another major issue is related to the fact that enforcement requests cannot, in practice, be transmitted automatically, since many Member States have not designated a central authority to which such requests should be transmitted.

Indeed, the fact that some Member States have not designated a central authority implies that the creation of a system for electronic transmission of requests of enforcement among authorities is not technically feasible yet, because such systems should probably connect hundreds or thousands national courts competent for enforcing sanctions issued by other Member States' authorities⁹⁷.

A further issue identified in the 2011 report concerns the fact that some of the Framework Decision provisions are not interpreted in a correct way. The relevant provisions are those that allow for the refusal to recognize sanctions imposed by courts of other Member States, notably those under Article 7⁹⁸.

For example, it appears that competent authorities of some MS refuse to recognise and execute a final decision imposing sanctions for road traffic offences imposed by other Member States on the ground that the defendant declared that he was not the driver.

Finally, an issue, within the scope of the Framework Decision's application, is the fact that it is applicable only to financial penalties above a specific threshold (EUR 70). This threshold appears to be too high for road traffic offences that are often sanctioned with fines of a lower amount in many Member States.

6.1.5 International agreements

⁹⁵ A further example is the UK, where stakeholders argued that the main obstacle to the execution of cross-border financial penalties under the FD was related to the difficulties in identifying central authorities in some Member States.

⁹⁶ Draft final report produced by Matrix Insight and Andersson Elffers Felix for the Study for Elements of the Impact Assessment on the Framework Decision 2005/214/JHA on the Application of the Principle of Mutual Recognition to Financial Penalties (FD) in the context of the multiple framework contract JLS/2009/A1/001. The majority of Member States required the translation of the certificate in their own official language; others accepted English as well (BE, CY, EE, FI, LV, LI, NL, SI, SE). Only three Member States accepted documents in additional languages (BE, FI, LU).

⁹⁷ This issue was clarified by the German Ministry of Justice at the Meeting of the Expert Group established to support the enforcement of road safety related traffic offences and Workshop on facilitating cross-border enforcement of sanctions for road safety related traffic offences held on 11 December 2015 in Paris. The Evaluation team participated to this meeting.

⁹⁸ See also COM (2008), Report from the Commission on the Application of 2005/214/JHA on the Principle of Mutual Recognition to Financial Penalties.

The FD and the CBE Directive are not the only legal tools facilitating cross-border enforcement. One of such tools is the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union⁹⁹.

Similarly to the Framework Decision, such Convention covers criminal and administrative proceedings, meaning that assistance can be requested not only for investigations in criminal matters but also for investigations of conduct that is subject to certain administrative sanctions, provided that the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters.

Such Convention covers forms of assistance, such as the spontaneous exchange of information between Member States regarding criminal offences and administrative infringements. In theory, Member States' authorities could send assistance requests to authorities of other Member States also with regard to investigations concerning road traffic offences.

However, based on our stakeholder consultation, it appears that many Member States do not cooperate in investigations concerning road traffic offences on the basis of such Convention. Some Member States, such as the Netherlands, report that, in some cases, they request assistance to other Member States' authorities in investigation concerning road traffic offences¹⁰⁰. Austrian authorities also maintain the feasibility of cooperation under such Convention. However, the majority of consulted stakeholders did not identify such Convention as an applicable tool for enforcing sanctions for road traffic offences committed by non-residents.

A relevant international agreement is the Vienna Convention on Road Traffic, 1968. From a purely legal standpoint Article 3/6 of the Vienna Convention on Road Traffic (1968) provides the legal basis for VRD exchange. Its scope is wider than that of the CBE Directive as it's not limited to 8 traffic offences. Pursuant to Article 3 the Contracting Parties undertake the obligation to communicate information necessary to identify road traffic offenders where the vehicle has been involved in an accident or the driver of this vehicle has seriously infringed road traffic rules and is thereby liable to important penalties or disqualification from driving in the territory of the contracting parties. The requests made under this convention are in writing and the VRD exchange is not automatic. Not all MS are parties to this Convention and only few mentioned such Convention as a tool concretely applied to enforce sanctions against non-resident traffic offenders¹⁰¹.

Other international instruments are: the European Convention on Mutual Assistance in Criminal Matters¹⁰², the European Convention on the Punishment of Road Traffic Offences¹⁰³ (of which only few Member States are parties); the European Convention on

⁹⁹ Council of Europe (1959), the European convention on Mutual Assistance in Criminal Matters, CETS No. : 030, 20/4/1959, entry into force:12/6/1962.

¹⁰⁰ Information provided by Dutch Ministry of Justice.

¹⁰¹ Austrian Ministry of Interior mentioned such Convention but acknowledged that is used only occasionally and for serious offences.

¹⁰² Strasbourg, 20/04/1959. Under this Convention, Parties agree to afford each other the widest measure of mutual assistance with a view to gathering evidence, hearing witnesses, experts and prosecuted persons.

¹⁰³ Council of Europe (1964), the European Convention on the Punishment of Road Traffic Offences, CETS. No : 053, 30/11/1964, entry into force:18/7/1972.

the International Validity of Criminal Judgements¹⁰⁴ (of which not all Member States are parties and which is not in force in many Member States); the European Convention on the International Effects of Deprivation of the Right to Drive a Motor Vehicle¹⁰⁵ (of which only few Member States are parties); the Convention on Driving Disqualifications¹⁰⁶ (ratified by Bulgaria, Cyprus, Spain, Ireland, Italy, the United Kingdom, Romania and Slovakia); and the Agreement on cooperation in proceedings for road traffic offences and the enforcement of financial penalties imposed in respect thereof¹⁰⁷. It should be noted that the Convention on Driving Disqualifications pertains to the list of obsolete ex-third pillar *acquis* as part of the Commission's REFIT exercise¹⁰⁸. The Commission submitted a legislative proposal in order to repeal such act¹⁰⁹.

Some of the above instruments are not in force in many Member States of the EU. Some of them are also based on the principle of dual criminality, i.e. the principle that requires that an action constitutes an offence in both jurisdictions involved in the cross-border enforcement of a sanction for such offence, (i.e. the Member State where an offence is committed and the one where either investigations need to be carried out and/or the sanctions imposed need to be executed).

The consultation of stakeholders, representing public authorities directly involved in the implementation of the above agreements such as MS Interior Ministries, allowed the team to identify some specific obstacles to the investigative co-operation concerning road traffic offences under international agreements. Such consultation confirmed that the concrete relations between enforcement authorities show a certain degree of unwillingness to grant mutual legal assistance and to abide the obligations deriving from international law. Such unwillingness is sometimes due to responsible authorities' knowledge gaps regarding the obligations stemming from international conventions and is only erratic, i.e. certain individuals or certain authorities of a MS. In other cases the unwillingness to cooperate is systematic and stems from contradictory national sources (ministerial decrees or supreme judicial verdicts).

Finally, it occurs that sometimes national law contradicts, or is assumed to contradict, international law obligations¹¹⁰.

Furthermore, some Member States signed multilateral agreements to cover cross-border enforcement issues. The main multi-lateral agreements are the Salzburg Forum CBE Agreement and the Nordic Police Cooperation Agreement between Finland, Norway, Denmark, Sweden and Iceland. Finally, many Member States have bilateral agreements with at least one other Member State.

¹⁰⁴ Council of Europe (1970), European Convention on the International Validity of Criminal Judgements, CETS No.70, 28/7/1974.

¹⁰⁵ Council of Europe (1976), European Convention on the International Effects of Deprivation of the Right to Drive a Motor Vehicle, CETS No. 88, DOPTED: 3/6/56 (entry into force: 28/4/1983).

¹⁰⁶ Convention 98/C 216/01 drawn up on the basis of Article K.3 of the Treaty on European Union on Driving Disqualifications, OJ C 216 of 10.07.1998.

¹⁰⁷ The Schengen *acquis* - Decision of the Executive Committee of 28 April 1999 on the Agreement on Cooperation in Proceedings for Road Traffic Offences (SCH/Com-ex (99) 11, rev. 2).

¹⁰⁸ REFIT is the European Commission's Regulatory Fitness and Performance programme. For details see: <http://www.europarl.europa.eu/sides/getDoc.do?type=REPORT&reference=A7-2011-0241&language=EN>.

¹⁰⁹ Proposal for a regulation of the European Parliament and of the Council repealing certain acts in the field of police cooperation and judicial cooperation in criminal matters, COM(2014)0715.

¹¹⁰ This opinion was provided by the Ministry of the Interior of Austria.

6.1.5.1 The Salzburg Forum CBE Agreement between Austria, Hungary, Croatia and Bulgaria

The Salzburg Forum CBE Agreement is one of the most important multi-lateral instruments in place to facilitate the cross-border enforcement of road safety related traffic offences. This Agreement was set up to improve cross-border cooperation between some Member States, notably Austria, Hungary, Croatia and Bulgaria.

This agreement covers issues not covered by the CBE Directive, such as: the identification of the driver; the serving of documents; and the enforcement of the sanctions. It covers the same road traffic covered by the CBE Directive. In addition, it covers the failure to reply to a request of another Member State addressed to the owner of a vehicle and requiring him to identify the driver of a vehicle¹¹¹.

This provision was included in order to allow Member States with a regime that sets the identification of a driver as a precondition to issue a fine for road traffic offences to compel the owner of a vehicle registered in another Member State to identify the driver.

In brief, this provision is aimed at addressing legal barriers to the cross-border enforcement of sanctions for road traffic offences related to the differences in Member States' liability rules for road traffic offences and notably to the rules concerning the identification of the person liable for a road traffic offence.

In addition, pursuant to the mechanism under the Salzburg Forum CBE Agreement, if the owner of the vehicle does not reply, the State of the offence can request the State of residence to identify the driver and provide for an automatic reply following the necessary steps of identification.

As to the serving of documents, pursuant to such agreement, if the authority imposing the sanction does not have the address of the driver, then it can request the Member State of residence to serve the sanctioning documents (or other documents of the procedure) to the offender.

This agreement also covers the transmission of the decision imposing a financial penalty and its enforcement.

The decision is attached to the request of enforcement to other Member States. Only the request concerning the enforcement is translated in the language of the Member State requested to enforce the sanction. This is done automatically¹¹².

While the Salzburg Forum CBE Agreement is not yet operational, financial commitments have been undertaken. Notably, based on the information provided by Hungarian authorities, in May 2015, Austria, Hungary, Croatia and Bulgaria signed a declaration of endorsement for an amount of 21,000 Euros for each country to EUCARIS in order to allow the latter to provide a platform for the international exchange of data, which was presented at a Workshop on October 5th in Budapest (EUCARIS Salzburg Application).

¹¹¹ Information provided by the Hungarian Interior Ministry at the Meeting of the Expert Group established to support the enforcement of road safety related traffic offences and Workshop on facilitating cross-border enforcement of sanctions for road safety related traffic offences held on 11 December 2015 in Paris.

¹¹² Information provided by Hungarian Interior Ministry during a phone interview.

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The practical implementation of the agreement, i.e. the exchange of information using EUCARIS Salzburg Application, should be completed by the beginning of 2017. The Agreement is open to all EU Member States and could eventually lead to a pan-European initiative.

Based on a legal analysis carried out by the Evaluation team, this agreement complements the CBE Directive and addresses both issues that are currently not effectively addressed at the EU level (execution of financial penalties for road traffic offences) and issues that are not addressed by EU legislation (cooperation aimed at identifying the driver or in serving documents).

This conclusion on the complementarity between the provisions included in such agreement and the ones of the CBE Directive was further confirmed by the consultation of stakeholders. Indeed the consulted stakeholders (having practical experience with the enforcement of road traffic rules against non-residents) identified some or all the ones addressed by such agreement as standing issues preventing the effectiveness of cross-border enforcement¹¹³.

¹¹³ Austrian Interior Ministry, Hungarian Interior Ministry, Bulgarian Police, Belgian Ministry of Transport, UK Ministry of Justice, Swedish Police, Finnish Ministry of Transport and Communications, Spanish Interior Ministry, French Interior Ministry and Dutch Ministry of Justice. Opinions were given in the replies to our questionnaires in oral interviews and in written emails.

6.1.5.2 Nordic Police Cooperation Agreement of 1 January 2003 between Iceland, Norway, Sweden, Denmark and Finland

On 1 January 2003 Iceland, Norway, Sweden, Denmark and Finland signed the Nordic Police Cooperation Agreement.

Pursuant to such agreement, police agencies can request assistance with identifying drivers of offending vehicles and support for imposing and enforcing a penalty on residents of other participating countries. This is done on a case by case basis. Based on the information provided by the Swedish authorities, it is possible to send a request of assistance concerning up-to 10 road traffic offences.

Based on the information provided by the stakeholders interviewed by the Evaluation team when an offence is detected automatically in a participating State the pictures of the plate of the vehicle with which an offence was committed and of the driver of the vehicle are transmitted to the country where the vehicle is registered and the police force takes charge of identifying the driver. In case of refusal to pay, the fine is transmitted to the public prosecution. Based on the information provided by stakeholders, the Evaluation team concluded that part of the reason why this agreement is successful is that enforcement authorities provide each other the necessary assistance to identify the driver of the offending vehicle.

Cooperation between the police agencies of the Nordic countries was considered to be one of the best examples of an effective operational multi-lateral agreement for cross-border cooperation. However, it appears that not all requests of assistance are satisfied by enforcement authorities of the State of residence of the owner of an offending vehicle due to lack of available resources¹¹⁴.

Swedish police estimates that it exchanges information concerning around 10,000 to 15,000 road traffic offences committed by Finnish drivers on a yearly basis under the Nordic Police Cooperation Agreement. It is also important to point out that Swedish police confirms that in the past 100% of the offence detected and allegedly committed by foreign drivers from Finnish residents were followed-up under the above agreement, assuming that the evidence collected through automatic equipment was suitable, i.e. that the picture of the driver and of the plate was of the necessary quality and could be used as evidence of an offence¹¹⁵.

6.1.6 Bilateral agreements

Some Member States signed bi-lateral agreements with neighbouring countries aimed at facilitating the cross-border enforcement of sanctions for road traffic offences.

For example France had a bilateral agreement with Luxembourg and Switzerland dating 2004¹¹⁶. The 2008 agreement with Belgium entered into force only in June 2012 and based on the information provided by French authorities was not implemented *de facto* as France and Belgium started implementing the CBE Directive in the same period.

¹¹⁴ Information provided by Swedish Police orally to the Evaluation team. It appears that Finnish authorities have been recently refusing to provide assistance to Swedish authorities on this ground.

¹¹⁵ Information provided by Swedish police in a phone interview held on 22 January 2015.

¹¹⁶ "Accord de coopération policière et douanière de proximité" between France and Luxembourg" dating 2004 and between France and Switzerland dating 2009.

Based on the available information such agreements cover the exchange of VRD in case a vehicle registered in France commits an offence on Belgian territory and *vice versa*.

France had instead no agreement with Italy and Germany¹¹⁷. However, based on estimates provided by the French authorities around 400,000 road traffic offences were committed by Italians per year in France and such offences were not sanctioned.

France did not provide data on offences followed-up under bi-lateral agreements. The Evaluation team estimated that considering that France could possibly follow-up around 40,000¹¹⁸ offences under such agreement.

Austria and Germany have an agreement¹¹⁹ covering different measures of mutual legal assistance concerning administrative matters, including traffic offences and notably the automated exchange of VRD for all kinds of traffic offences, and different measures of mutual legal assistance (identification of the driver, service of documents, and enforcement/execution of decisions).

Based on information provided by the Austrian Ministry of Interior, cooperation with Germany on enforcement of road traffic offences works and worked efficiently and the payment rate was and is satisfactory. The reasons why the above agreement works effectively are the following: the agreement does not only cover VRD exchange (conventional via paper) but also mutual assistance in identifying the driver and serving documents. In addition the cooperation does not imply translation costs, since German is the official language in both countries¹²⁰.

Under this agreement Austrian authorities managed to enforce sanctions for offences detected automatically and committed by German offenders. The number of offences followed-up before the implementation of the CBE Directive was more than 100,000 per year¹²¹. It is important to point out that the VRD exchange was carried out by letter and was not automatic under the Austria-Germany cooperation agreement.

The cooperation of Austria with other Member States was instead difficult and the payment rate was low. Thus, offences committed by non-residents from other MS than Germany were followed-up and enforced only in very specific or very severe cases¹²². There are no specific agreements between Austria and other Member States covering such cooperation but the legal basis for this occasional cooperation was the Vienna Convention on Road Traffic, 1968 (see above).

In addition Austria has entered into a Police Cooperation Agreement with Switzerland and Liechtenstein (2012). However as these States are not EU MS this cooperation will not be discussed in this Report.

¹¹⁷ French and German authorities refer that they were and are not reciprocally exchanging data under bi-lateral agreements.

¹¹⁸ Estimates based on data provided by French Authorities and on the number of outgoing requests made by FR to LU under the CBE Directive on a yearly basis.

¹¹⁹ Signed on 31 May 1988 and operational since 1990. http://www.verwaltungsvorschriften-im-internet.de/bsvwvbund_03091990_VII6130081OST3.htm

¹²⁰ Information provided by Austrian Interior Ministry by email of 9 February 2016.

¹²¹ Information provided by Austrian Interior Ministry by email of 9 February 2016.

¹²² Information provided by Austrian Interior Ministry by email of 9 February 2016.

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Based on the available information Germany has also an agreement with Italy concerning road traffic offences but it covers the serving of documents and does not include mechanisms aimed at the identification of the owner of a vehicle committing a road traffic offence.

Italy has bilateral agreements with Austria¹²³ and Slovenia^{124 125} allowing the exchange of VRD among enforcement authorities. The Italian Austrian agreement covers both mutual recognition of disqualifications and exchange of VRD and of information concerning driving license holders. Interestingly, Austrian Interior Ministry did not identify Italy as a country with which Austria exchanged VRD before the CBE Directive. The Agreement between Italy and Slovenia is a general police cooperation agreement which foresees various cooperation tools in the fight against crime.

It does not cover cooperation in the identification of the offender and cooperation in criminal procedures.

No information was provided to the Evaluation team as to the functioning of the agreement between Italy and Slovenia.

Before the CBE Directive the Netherlands exchanged VRD with Germany based on a verbal agreement which dates back to the nineties and on national provisions allowing Dutch authorities to provide Germany with the vehicle registration data upon request for traffic offences and *vice versa*¹²⁶.

Based on the information provided by the Netherlands to the European Commission such cooperation has allowed the Netherlands to follow-up, in the period 2009-2014, on a yearly basis, more than 250,000 road traffic offences (mostly speeding offences) allegedly committed by German residents on Dutch soil¹²⁷.

The Netherlands exchanged VRD also with Belgium based on a bilateral agreement and such cooperation allowed in the period 2009-2014 to follow-up, on a yearly basis, around 200,000 road traffic offences (mostly speeding offences) allegedly committed by Belgian residents on Dutch soil¹²⁸.

¹²³ "Accordo tra la Repubblica italiana e la Repubblica d'Austria sulla mutua assistenza amministrativa negli affari inerenti alla circolazione dei veicoli a motore (1988). Italian implementing law is available at this link: http://www.gazzettaufficiale.it/eli/id/1990/01/22/090G0022/sg;jsessionid=A6M9-Vd17BjqV8osbMfytQ___ntc-as2-guri2a.

¹²⁴ *Accordo tra il Governo della Repubblica italiana e il Governo della Repubblica di Slovenia sulla cooperazione transfrontaliera di polizia, signed in Lubiana on 27 August 2007.*

¹²⁵ <http://www.espertorisponde.ilsole24ore.com/problema-settimana/contavvenzioni-preseestero:20130819.Php>.

¹²⁶ Information provided by the Dutch authorities.

¹²⁷ Reply from the Dutch Government to the European Commission's letter sent via the EU Pilot system, case 7234/14/MOVE.

¹²⁸ Reply from the Dutch Government to the European Commission's letter sent via the EU Pilot system, case 7234/14/MOVE.

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In addition, the Netherlands and Belgium have signed a bilateral agreement covering offences not covered by the CBE Directive. The agreement contains provisions similar to the ones of the CBE Directive¹²⁹.

Spain was not a party to any bilateral agreement allowing VRD exchange before the entry into force of the CBE Directive. It had a judicial cooperation agreement with Portugal¹³⁰ but this did not cover VRD exchange issues. Spain has on the other hand entered recently into a bilateral agreement with France. Such agreement concerns VRD exchange in connection with speed offences and failure to stop at a traffic light.

Based on the information provided by Spanish authorities this agreement has entered into force in August 2013. It has allowed the exchange of VRD data in connection with 150,000 road traffic offences on a yearly basis. This agreement was signed by the two States in order to allow VRD exchange between the two countries to take place before the entry into force of the national provisions transposing the Directive¹³¹.

Croatia exchanged VRD data through police cooperation with Austria, Hungary and Slovenia and to a marginal extent with other Member States. However, the road traffic offences followed-up under the above cooperation mechanisms were a small number. There are not specific data available. Moreover, Croatia refers that requests for VRD exchange under the CBE Directive made by Croatia in connection to road traffic offences amounted to 1396 in the period April 2015-January 2016. Croatia received 13,707 requests of VRD exchange from other Member States in the period April 2015-January 2016 under the CBE Directive. Such requests came from Member States that were previously not exchanging data with Croatia.

The UK and Ireland have entered into an agreement which allows their respective enforcement authorities to mutually recognize driving disqualifications.

Such two States have exercised the option envisaged in the Convention on driving disqualifications that allows Member States to apply the Convention before it enters into force. Notably, the governments of the UK¹³² and Ireland have exercised this option, enabling mutual recognition of driving disqualifications between their respective jurisdictions and since 28 January 2010 mutual recognition of driving disqualifications between the United Kingdom and Republic of Ireland came into force.

Subsequently, the UK opted-out¹³³ of the Convention in mid-2014 and the two countries have negotiated a bilateral agreement¹³⁴ on the same matter that is based on the

¹²⁹ Treaty of 25 April 2013 between Belgium and the Netherlands (Verdrag tussen het Koninkrijk der Nederlanden en het Koninkrijk België over de grensoverschrijdende uitwisseling van gegevens met het oog op het identificeren van personen die ervan verdacht worden inbreuken te hebben begaan in het kader van het gebruik van de weg; Traité entre le Royaume des Pays-Bas et le Royaume de Belgique sur l'échange transfrontalier de données en vue de l'identification de personnes soupçonnées d'avoir commis des infractions dans le cadre de l'usage de la route). The Treaty is ratified by the Netherlands but not by Belgium yet. Information provided by Dutch authorities.

¹³⁰ Acordo relativo à Cooperação Judiciária em Matéria Penal e Civil available at: <http://www.gddc.pt/cooperacao/instrumentos-bilaterais.html>.

¹³¹ Information confirmed by Spanish 18 January 2016 and by French authorities by email of 17 January 2016.

¹³² Based on the available information the primary legislation to give effect to the Convention in the UK was introduced through the Crime (International Cooperation) Act 2003 (CICA). Further Regulations to bring the agreement into law in Great Britain were laid before the House on 25 November 2008.

¹³³ Pursuant to Protocol 36 of the TFEU. It will be useful to recall that the operation of the Convention has from 1 December 2014, as part of the provisions of the Lisbon Treaty, come under the jurisdiction of the European Court of Justice (ECJ). The UK has thus exercised its right to opt out of the ECJ jurisdiction in relation to the

Convention's main provisions but amended in order to address issues not addressed by the Convention. The new bilateral agreement was signed in Dublin on 30 October 2015. The national provisions necessary to give effect to the agreement have been adopted in December 2015 by Ireland¹³⁵. Based on the available information such provisions have not yet been adopted by UK.

The cooperation under such agreement implies that driving disqualifications imposed by the UK on Irish resident drivers are thus recognized by Ireland and *vice versa*.

Against the above background, the analysis found that many Member States such as Czech Republic¹³⁶, Estonia¹³⁷, Romania¹³⁸, Lithuania¹³⁹, Slovakia¹⁴⁰ and Poland¹⁴¹ were not parties to any bilateral or multilateral agreement covering cross-border enforcement of sanctions for road traffic offences or simply the exchange of VRD.

Some Member States, such as Slovakia, refer that in certain cases the exchange of owner data was carried on basis of Article 3.6 of Vienna Convention on Road Traffic¹⁴² and Article 25 of Geneva Convention on Road Traffic¹⁴³. Data on the number of such exchanges have not been provided, however the above exchange mechanisms were not carried out using automatic mechanisms but all requests were processed manually¹⁴⁴.

Slovenia sent requests for information concerning non-resident offenders to the competent authorities of other countries in accordance with the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union. In

application of the Convention. As a result the UK is no longer party to the Convention and the arrangements under that convention allowing for mutual recognition of driving disqualifications between the Republic of Ireland and the UK have ceased as and from 1 December 2014.

¹³⁴ Agreement on the Mutual Recognition of Driving Disqualifications between the United Kingdom of Great Britain and Northern Ireland and Ireland: <http://treaties.fco.gov.uk/treaties/treatyrecord.htm?tid=14827&pg=1>.

¹³⁵ <http://www.dttas.ie/press-releases/2015/government-approves-publication-road-traffic-bill-2015>.

¹³⁶ Information confirmed by Czech Ministry of the Interior. "The Czech Republic is not bound by any international agreement with other Member States which would cover the exchange of such information about the offenders. The only related agreements are the Police cooperation agreements which involve only criminal offenses therefore do not cover minor or traffic offenses".

¹³⁷ Information provided by Estonian Police.

¹³⁸ Information confirmed by Romanian police by email of 21 January 2015.

¹³⁹ Information confirmed by Lithuanian authorities.

¹⁴⁰ For Slovakia this information has been confirmed by Slovak authorities.

¹⁴¹ Information confirmed by Polish authorities on 22 January 2016.

¹⁴² The Convention on Road Traffic, known as the Vienna Convention on Road Traffic, is an international treaty designed to facilitate international road traffic and to increase road safety by establishing standard traffic rules among the contracting parties. See Section 6.1.5.

¹⁴³ Convention on Road Traffic, Geneva, 19 September 1949.

¹⁴⁴ Information provided by Slovak Police by email of 18 January 2016.

this context Slovenia exchanged occasionally data with the competent authorities from Austria, Germany and partly Italy¹⁴⁵.

6.1.7 The TISPOL STRIDER PROJECT

A further non-legislative initiative aimed at facilitating the cross-border enforcement of road traffic rules is the TISPOL STRIDER Project which commenced on 1st March 2015 and will conclude on 31st May 2017. TISPOL is the European Traffic Police Network. The STRIDER project brings together the road traffic police of twenty eight European TISPOL member countries and the Road Policing Services of Norway and Switzerland, who are TISPOL members, and Serbia who are observers. It is funded by the European Commission DG MOVE through a grant awarded further to the call for proposals MOVE/C4-2013/122-2.

Its objective is to save lives on Europe's roads through the sharing of good practice and providing support for the road traffic police in these countries. Notably, it is focused on making a significant contribution towards the Commission's target of reducing road deaths by 50% by 2020. Its specific objectives are:

1. To promote efficient cross border co-operation between Member States concerning the enforcement of traffic rules;
2. To share good practice with traffic police forces across Europe in order to:
 - (a) Increase enforcement of road traffic rules, particularly those offences identified in the CBE;
 - (b) Ensure equal treatment of all EU Citizens;
 - (c) Maximise the use of technology to support detection of road traffic offences.
3. To carry out pan-European Enforcement operations with particular emphasis on those offences identified in the CBE;
4. To communicate effectively with EU citizens to raise their awareness of road safety related issues;
5. To organise thematic road safety seminars, and officer exchanges to share 'best enforcement practice';
6. To provide guidance on harmonised methods and practices, where possible, to ensure equal enforcement of traffic rules.

The project focuses on two European regions and countries that (with the exception of Slovakia and Malta) were above the EU average for fatalities per million inhabitants of population. In addition in 2012, 49% of all road fatalities within the EU occurred in these two regions. Such region and countries are:

(1) Central & Eastern region consisting of Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, and Slovakia.

(2) Southern and Balkan region consisting of Bulgaria, Croatia, Cyprus, Greece, Italy, Malta, Romania and Slovenia.

The Project was scheduled in 10 Actions including eighteen European-wide enforcement operations (Action 1), fifty officer exchanges (Action 3), coordinated international cross-border operations (Action 5), and road safety guidelines (Action 8)¹⁴⁶.

¹⁴⁵ Information confirmed by Slovenian Ministry of Infrastructure by email of 22 January 2016.

Based on information provided in the Interim report of such Project and provided to the Evaluation team by the Commission various activities have been performed within the project, implementing the respective actions.

For what is of interest to the end of our Evaluation under Action 2 TISPOL Members carried out nine European-wide enforcement operations in 2015. These operations are pan-European operations, held nationally at the same time across the European Union in order to maximise results and raise awareness of the particular road safety activity.

Notably the following operations were carried out:

- **TISPOL Operation Seatbelt 9-15 March 2015** which led to the detection of 103,457 seatbelt Offences and more than 6,000 total crimes.
- **TISPOL Operation Speed 13-19 April 2015** which led to the detection of 676,427 speed offences and 2,670 crimes.
- **TISPOL Operation Alcohol & Drugs 1-7 June 2015** which allowed controlling more than one million drivers, and led to the detection of 17,006 drink-driving offences and 2,764 offences of driving under the influence of drug and to a total of 2,575 crimes.
- **TISPOL Operation Speed 17-23 August 2015** which led to the detection of 549,237 speed offences and of 2,668 other crimes.
- **TISPOL Operation Seatbelt 7-13 September 2015** which led to the detection of 94,719 seatbelt offences and 5,987 other crimes.
- **TISPOL 24 Hour Speed Marathon Operation 16 April 2015.** The 24 hour is a 'blitz' operation which took place over 24 hours from 06h00-06h00 using a maximum of police manpower and resources. It focused on speed enforcement and was publicised in advance. The public was asked to offer the locations where they felt speed enforcement should be undertaken during the 24 hour operation in their community and to attend and support the operations on the streets and fast roads when the police were carrying out the enforcement operations. The media were informed and attended the operation itself with radio and TV on the spot to interview police, drivers, public and attending politicians to raise the awareness on dangers and the fatal outcomes that occur on the roads because of speeding. 22 countries participated to the operation. The 24 hours operation led to the detection of 136,885 speed offences and 123 other crimes.
- **TISPOL Operation TRIVIUM 22-28 June 2015.** This operation was targeted at mobile organised East European criminal gangs on the European road network. Members of such gangs tend to infringe also road traffic rules committing serious offences. The focus of the operation was speeding offences. However, the stopping of vehicles has also led to the detection of criminal offences. 897 people were arrested during the operation, 852 in the UK and 45 in the Netherlands. The operation allowed detecting and enforcing 1301 road traffic offences and notably: drink / drug driving, seatbelts, speeding and mobile phone distraction offences. In

¹⁴⁶ ACTION 1 - Four (4) regional seminars to be held during the two years of the project.; ACTION 2- Eighteen (18) European-wide Enforcement Operations; ACTION 3 - Fifty (50) Officer Exchanges; ACTION 4 - Communicating the Road Safety message; ACTION 5 - Co-ordinated International Cross Border operations; ACTION 6 - Two International Road Safety Conferences; ACTION 7 - Nine (9) thematic seminars focusing on particular aspects of road safety enforcement; ACTION 8 - Road Safety Guidelines ; ACTION 9 - Evaluation of the Project; ACTION 10 - Management of the Project.

addition, there were, among others, 55 arrests for disqualified driving, and 447 drivers were found without insurance.

The Evaluation team notes that the impact of TISPOL operations under the STRIDER project is substantial. For example, under the 24 Hour Speed Marathon the number of speed offences detected in 24 hours by enforcement authorities in some selected locations was more than 100,000, amounting to around 0.2-0.5%¹⁴⁷ of all speed offences (detected by enforcement authorities and with automatic equipment) in all the territory of the EU in an entire year. As many of the operations were carried out at the border between two Member States, such operations have led to the detection of many road traffic offences committed by non-residents (8%).

6.1.8 Member States' systems for the automated enforcement of road traffic rules and their impact on cross-border enforcement

The use of automatic checking equipment in order to detect road traffic offences is a factor affecting substantially the effectiveness of the enforcement and of the cross-border enforcement of road traffic rules.

It affects the application of the CBE Directive to the extent that the CBE Directive has been designed as a tool aimed at facilitating the cross-border enforcement of offences detected automatically to a major extent. Thus, if the use of automatic equipment to detect road traffic offences is poor at the national level, the application of the CBE Directive can have a limited impact on compliance with road traffic rules and, consequently, on road safety.

The products of automatic checking equipment are evidence used by enforcement authorities to issue fines and are thus subject to the scrutiny of national courts requested to issue fines or to confirm fines imposed by other authorities. For example, the national courts of some Member States, such as Italy, require that the checking equipment used to detect offences is tested at least on a yearly basis (decision of the "Corte Costituzionale" of 18 June 2015 no. 186¹⁴⁸). Other interesting principles stated by Italian courts concern the requirement that the checking equipment needs to be previously signalized (Corte di Cassazione (Supreme Court), Order number 680 of 13 January 2011¹⁴⁹).

The Administrative Court of Madrid established that a fine is not valid if it is not accompanied by a document proving the reliability of the detecting equipment and its compliance with relevant Spanish rules (Juzgado de lo Contencioso-Administrativo no. 23 de Madrid – February 2013¹⁵⁰). The Court of Administrative Litigation of Palencia has annulled a fine of 300 euros and the loss of two points imposed on a driver by the Department of Traffic of the City of Palencia because it was not possible to properly identify the radar with which the alleged infringement was detected and consequently, it

¹⁴⁷ The Team estimated, based on data provides by some Member States and on estimates made by the Team using proxies, that the number of all speed offences detected on EU territory can amount to around 40 million offences on a yearly basis. These estimates are conservative.

¹⁴⁸ <http://www.altalex.com/documents/news/2015/06/19/autovelox-non-revisionato>.

¹⁴⁹ <http://www.altalex.com/documents/news/2011/02/26/autovelox-va-segnalato-anche-a-chi-si-immette-sulla-strada-controllata>.

¹⁵⁰ http://www.elconfidencial.com/motor/2013-02-20/nuevo-varapalo-judicial-al-ayuntamiento-de-madrid-por-las-multas-en-los-semaforos_697877/.

was not possible to check whether such instruments complied with the applicable standards foreseen by Spanish legislation (Juzgado de lo Contencioso-Administrativo de Palencia – December 2014¹⁵¹).

Another UK Court stated that the evidence behind a speeding ticket was not reliable, because the camera was not functioning under the conditions set by The Road Traffic Offenders Act 1988, section 20(4). In particular, the device had not been approved by the Secretary of State (The Brighton Magistrates Court – December 2008¹⁵²). Based on an analysis of the above case law, the Evaluation team concluded that national courts require, for the validity of a sanction for a road traffic offence, that the automatic checking equipment used by national enforcement authorities to detect such offence, complies with standards established in national legislation.

In addition, the Evaluation team compared legislation of different Member States and found that in general Member States have specific rules covering areas such as:

- type examination or approval of the equipment, operational requirements, construction requirements, performance requirements, measuring methods, duration of the approval;
- verification of the equipment;
- periodic inspection and testing of the equipment;
- extraordinary verification of the equipment;
- procedures for the verification of the equipment;
- selection of the bodies authorized to carry out controls;
- information that should be included on devices;
- calibration of the equipment and authorization of bodies which can carry out the calibration procedure.

However, the requirements foreseen in such legislation are different. Differences also exist in the level of detail of Member States' legislations.

The Team looked into national case law in order to assess whether different Member States' standards for automatic equipment might affect the mutual recognition of decisions imposing financial penalties for road traffic offences.

It also consulted stakeholders seeking their opinion on whether there is a need to approximate Member States' rules concerning the standards for automatic devices used for the detection of road traffic offences.

The analysis did not identify relevant case law of national courts stating that a sanction for a road traffic offence imposed in another Member State could not be recognized on the ground that the device used to detect the offence did not comply with minimum technical or legal standards.

The consultation of stakeholders confirmed that Member States' authorities do not consider differences in Member States' legislation concerning standards for automatic checking equipment as an obstacle to the cross-border enforcement of road traffic rules.

The vast majority of the stakeholders consulted trust that national courts will not refuse to recognize sanctions imposed by national authorities of other Member States on the

¹⁵¹ http://www.diariopalentino.es/noticia/ZE56E24BC-9C85-9956_5958D565770A3524/20141210/juez/anula/multa/no/estar/bien/identificado/radar/capital

¹⁵² <http://www.honestjohn.co.uk/faq/speeding-defences-3/>.

ground that the standards for automatic equipment applicable in the Member State of the offence are not equivalent to the ones applicable in the Member State where the fine should be executed.

Only one¹⁵³ stakeholder, representing less than 5% of the consulted stakeholders, pointed out that, different standards for automatic checking equipment will affect the mutual recognitions of sanctions for road traffic offences at the EU level. He indeed pointed out that in the UK, any device that does not meet the stringent UK standards for infallibility will not be respected by the UK public and UK courts and this could lead to fines/convictions being overturned in UK courts.

He made an interesting example concerning accuracy standards, explaining that "*a fine detected with an automatic device in another country with any margin of error in the results it produces will not be accepted as evidence by an UK Court*" and this could lead to a refusal to recognize a financial penalty imposed by the authorities of another Member State¹⁵⁴.

In conclusion, the Team found that the lack of relevant case law on refusal to recognize financial penalties imposed for offences detected automatically on the ground that the equipment was not reliable is an indication that different standards for automatic checking equipment are not affecting the cross-border enforcement of sanctions for road traffic offences at this stage.

Moreover, different standards for automatic checking equipment do not impact, the application of the CBE Directive because Member States do not refuse access to their VRD data on the ground that the equipment used to detect road traffic offences in another Member State is deemed not reliable.

¹⁵³ Belgian authorities suggested that an approximation of standards could be useful but did not identify major problems related to the current lack of EU-wide standards.

¹⁵⁴ Information provided by the UK Department of Transport.

Caveat: the analysis did not identify relevant case law concerning cross-border cases, i.e. cases where a national Court refused to recognize a sanction imposed by a Court of another Member State on the ground that the equipment used should have not been admitted as probatory evidence.

The Team notes on this respect that experience with the cross-border enforcement of sanctions for road traffic offences detected automatically is limited. Firstly, there are no data concerning offences detected automatically and enforced under the Framework Decision. Thus, the reason for lack of case law could simply be lack of relevant cases. Secondly, cooperation under bilateral agreements that might have led to litigation under the Framework Decision concerned mostly Germany and the Netherlands before 2013, two countries with best practices in the automated enforcement of road traffic rules.

Consequently, it might be too early to assess whether different standards for automatic checking equipment at the Member States level will affect the cross-border enforcement of road traffic rules and whether there is a need to approximate standards for automatic checking equipment at the EU level.

In conclusion, it cannot be excluded that:

1. an increase of the number of sanctions for road traffic offences detected automatically;
2. followed by an increase of sanctions imposed on non-resident offenders and enforced under the Framework Decision;
3. and by an increase of the use of the Framework Decision by Member States having less rigorous standards for automatic checking equipment;

might lead to litigation having as object the reliability of devices used in other Member States to detect road traffic offences.

Notably, it cannot be excluded that some national courts will refuse to recognize sanctions imposed in other Member States on the ground that the rights of defence of the alleged offenders in the proceeding held in the Member State of the offence were infringed as the evidence used to prove the offence was not reliable.

6.1.9 Overview of the different systems for automatic enforcement of road traffic rules and identification of best practices

The Evaluation team analysed the practical situation of Member States concerning the use of automatic checking equipment to detect road traffic offences in order to understand the different approaches of Member States to automatic enforcement of road traffic rules and to identify best practices.

At the outset, it is important to point out that the choice of automatic equipment used to detect traffic offences is crucial in order to ensure a consistent enforcement of road traffic rules. A simple fact explaining this finding is that in many Member States offences detected by motor bikers can simply not be detected automatically and thus thousands of offences are likely to go unpunished. For example, in 2013 in France, out of 19 million offences detected by automatic enforcement devices, 40% were not prosecuted. 20% of them were not prosecuted because they had been committed on board of a foreign vehicle, while 20% were not prosecuted either because the data of the plate were unreadable or because they were committed by motorbikes or because the picture

included more vehicles or because the camera did not differentiate between cars and lorries¹⁵⁵.

That said, not surprisingly, the analysis found that in most Member States speeding offences are detected automatically. On the other hand, the number of equipment installed varies substantially across Member States. Some Member States have installed no more than 20 speed cameras, while others have installed around 4,000 speed cameras (UK). It also found that in some Member States the selection of sites of where to install speed cameras is done based on a specific assessment of the features of the road and the traits of the road where the camera should be installed¹⁵⁶.

The analysis also found that many Member States use both spot control and distance control¹⁵⁷ devices for speed enforcement (Italy, France, Lithuania, Croatia, the UK and the Netherlands) and that the choice of the measurement methods, i.e. the methods used to measure the speed of a vehicle and to identify whether speed limits are exceeded by a vehicle, is made having regard to the typology of each road to be monitored and based on a case by case assessment of the features of such road¹⁵⁸. Notably, instant speed cameras, i.e. camera which use roadside sensors to measure the instantaneous speeds of vehicles either at specific spots of the roadway or at specific times of the day, are used in dangerous places, such as pedestrian crossings, school areas, black spots and other crossings.

Section control devices, i.e. devices which monitor the average speed of a vehicle on a specific section of road, are effective on highways and motorways, as they ensure compliance with speed limits over the entire route.

Against this background, in some Member States the use of distance control tools for detecting speed is problematic for both practical and legal reasons. Notably, Member States, such as Germany and Sweden, find problematic the use of such devices because they might be incompatible with their privacy rules. One of the concerns expressed by stakeholders is, for example, related to the fact that in countries with a driver liability regime, taking pictures of a driver before he has committed an offence is perceived as conflicting with principles of law¹⁵⁹.

The analysis also found that some Member States, such as the Netherlands and the UK, use cameras that can detect both speeding offences and the offence of not stopping at a traffic light and that multifunctional equipment using the Automatic Number Plate Recognition (ANPR), which allows enforcing more offences, is considered as more efficient compared to equipment used by other Member States. In addition, the analysis found that in many Member States offences committed by motor bikers cannot be detected because the devices used allowed taking pictures of the vehicles merely from the front. Offences such as not using a seat belt cannot be detected automatically in most Member States. However, some Member States allow using pictures taken by speed camera as evidence to prosecute the offence of not wearing a seat belt (e.g.

¹⁵⁵ Information provided by French Interior Ministry in documents attached to their reply to our questionnaire.

¹⁵⁶ In Finland the choice of the site where to install an automatic device is made further to a consultation between the road owner and the Police.

¹⁵⁷ Equipment measuring the average speed.

¹⁵⁸ Conclusions of the discussion between the Team and TISPOL Members at the TISPOL Council on 8 October 2015.

¹⁵⁹ This concern was expressed by Swedish authorities during an oral interview.

Lithuania). Few Member States detect automatically using a forbidden lane. Table 5 below illustrates how Member States enforce some of the offences covered by the CBE Directive. Where an offence can be detected automatically the relevant box has been ticked with an "X". Where the information was not available, the Evaluation team left the box empty. Where the consulted stakeholders confirmed that the answer was negative, the Evaluation team states "NO".

Table 5 Automatically detected offences

Traffic offences	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	IE	IT	LV	LT	LU	HR	HU	MT	NL	PL	PT	RO	SE	SI	SK	UK	
Speeding	X	X	X	X	NO ¹⁶⁰	X	X	X	X	X	X	X		X	X	X	NO	X	X	X	X	X	X	X	X	X	X	X	X
Non-use of a seat-belt		NO	NO		NO	NO	NO	NO	NO	NO	NO	NO		NO		NO ¹⁶¹	NO	NO	NO	NO	NO	NO		NO	NO	NO	NO	NO	NO
Failing to stop at a red traffic light		X	X	NO	NO		NO		NO	X	NO	X	X	X		X	NO	X	NO	X	X	NO ¹⁶²		NO	NO	NO		X	

The Table 6 below specifies instead also the features of Member States' systems for the automated enforcement of road traffic rules, i.e. whether the speed cameras installed differentiate between different vehicles (typically lorries and cars), whether they are able to identify the plate of a motorbike and whether the cameras used are equipped with Automatic Number Plate Recognition (ANPR), a mass surveillance method that uses optical character recognition on images to read vehicle registration plates.

Where the information was not available, the Evaluation team left the box empty. Where the consulted stakeholders confirmed that the answer was negative, the Evaluation team states "NO".

¹⁶⁰ Information provided by TISPOL.

¹⁶¹ However pictures taken by speed cameras are used also to detect such offences.

¹⁶² New devices are being installed that will detect also failing to stop at a red light.

Table 6 Features of devices used by Member States to detect road traffic offences

Traffic offences	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	IE	IT	LV	LT	LU	HR	HU	MT	NL	PL	PT	RO	SE	SI	SK	UK
Discriminatory devices¹⁶³												X		X		X	NO	NO	X ¹⁶⁴				X			X		
Devices that can detect more offences		X					NO								X			NO		X	NO				NO	NO		NO
Devices can identify plates of motorbikes			X				NO					X ¹⁶⁵	X		X		X	NO							NO	NO		X
Automatic number plate recognition		X			X	X			NO	X				X			NO	X		NO	X	NO		X	X	NO		X

Table 7 below provides information concerning the number of equipment installed, the length of national roads and the Evaluation team's estimates of the number of speed equipment installed per KM of roads. Where the relevant information has not been provided by Member States' authorities the box was left empty.

This Table shows that the UK has an impressive number of camera equipment installed compared to the length of its roads. Notably, on average, a camera covers less than 100 KMs of roads. In the Netherlands and in France, installed speed cameras ensure also a good coverage of the national roads.

¹⁶³ Discriminatory devices are devices that can differentiate between different typologies of vehicles.

¹⁶⁴ Devices used in Hungary cannot identify the plate of the motorbikes.

¹⁶⁵ Often the plates of motorbikes are not readable.

Table 7 Data on equipment installed

Data	BE	BG	EE	FI	FR	IT	LT	HR	HU ¹⁶⁶	MT	NL	RO	SE	SI	UK
Speed equipment/Road Total Length					0.0024	0.0006	0.0016	0.0007	0.00003		0.004				0.01

Table 8 provides an overview of methods used by Member States for measuring speed. The Table shows that many Member States apply different methods. The Table also shows that many Member States having a regime of strict driver liability use only instant speed cameras. The UK is an exception.

Table 8 Methods used by Member States to assess the speed of vehicles and to detect speed offences

Speed measurement methods	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	IE	IT	LV	LT	LU	HR	HU	MT	NL	PL	PT	RO	SE	SI	SK	UK
Instant						X	X		X		X		X				N/A	X	X			X ¹⁶⁷	X	X	X	X		
Distant	X ¹⁶⁸																N/A											
Combined ¹⁶⁹		X	X	X	X					X		X		X		X	N/A				X							X

¹⁶⁶ In December 2016 Hungary will install 365 fixed cameras in 132 geographic places. Such cameras will detect also traffic light offences and the use of a forbidden lane.

¹⁶⁷ Based on ETSC Report, Speed Monitoring, 2012 section control was being tested in 2012.

¹⁶⁸ Based on information dated 2012: ETSC Report, Speed Monitoring, 2012.

¹⁶⁹ Combined means that both speed measurement methods are used in the MS.

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The data provided in the Tables 7-9 confirm the findings of the stakeholder consultation that the UK and Dutch systems are best practices for the automatic enforcement of road traffic rules since they combine distant and instant measurement for speeding offences using multifunctional devices able to detect offences on more lanes and cameras with the Automatic Number Plate Recognition (ANPR).

Furthermore, the tables show, for the Member States that provided data, that in some Member States the number of speed cameras and red light cameras installed is either low or 0 (notably Luxembourg) and that in many Member States failing to stop at a red light is not detected automatically.

The Team assessed also the enforcement of drink-driving and found its enforcement is carried out using breath tests by most Member States. Based on the information provided, alcohol tests have to be calibrated (every 6 months or every 1 year in Hungary and the Czech Republic). Czech legislation specifies also the allowed margins of error.

Enforcement of rules on drink-driving is carried out mainly through random checks in places where drink-driving is most likely to occur, such as festivals. Some Member States, such as the Netherlands, refer that in addition to the above enforcement method they organize campaigns, such as the BOB-campaign, and take part in TISPOL initiatives, such as the TISPOL-alcohol-control-actions.

The Table below provides an overview of the information gathered with reference to enforcement of drink-driving and therefore the use of breath tests and related detection methods. Where the information was not provided, the Evaluation team left the box empty.

Table 9 Enforcement of drink-driving

Use of breath tests for drink-driving	AT	B E	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	IE	IT	LV	LT	LU	HR	HU	MT	NL	PL	PT	RO	SE	SI	SK	UK	
Use of breath tests for drink-driving	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X
Random checks					X				X	X			X	X		X	X	X	X		X	X				X		X	
Targeted operations or controls in case of accidents						X			X	X			X	X		X	X	X	X		X	X				X		X	

Based on the information gathered the Evaluation team concluded that there are huge differences in the number and the features of equipment installed at the Member States' level and that the effectiveness of the automatic enforcement of road traffic rules varies substantially across Members States of the EU.

These differences are potentially able to substantially affect the impact of the CBE Directive on road safety. Indeed, the fact that the CBE Directive covers offences that cannot be detected automatically in many Member States implies that the mechanism put in place by the Directive will not be fully exploited by such Member States. This might also imply that the way enforcement of road traffic rules is carried out remains and will remain uneven across the EU Member States, unless consistent strategies for the automated enforcement of road traffic rules are prepared and implemented.

6.1.10 Conclusions

6.1.10.1 Conclusions on the functioning of cross-border enforcement

The analysis found that the CBE Directive covered an important gap in the EU legal framework for the cross-border enforcement of road traffic rules.

The entry into force of the measures of the CBE Directive allowed for the follow-up of road traffic offences detected in many Member States that were not able to follow-up such offences before. Indeed, before the entry into force of the CBE Directive, many Member States were not cooperating with other EU Member States as there were no stipulated specific agreements aimed at facilitating such cooperation between enforcement authorities. Thus, for many Member States, the enforcement of sanctions for road traffic offences is only viable under the CBE Directive and, to a limited extent, the Framework Decision.

The analysis has also shown that the implementation of the CBE Directive allowed Member States to follow-up offences allegedly committed by residents of many EU Member States and not only neighbouring countries.

In this respect the analysis found that the geographical scope of bi-lateral and multi-lateral agreements entered into by EU Member States is mostly limited to 2 countries. This implies that in order to address enforcement issues throughout the EU by means of bilateral agreements, it would take 378 bilateral agreements.

In addition, no Member State has signed agreements with all the other Member States of the EU, but, in the best case scenario, only with up to 3 other Member States. This implies that the CBE Directive is the only tool that can allow Member States to follow-up offences committed by non-residents in a large number of Member States of the EU and, possibly, in all Member States of the EU.

In light of all the above, the Team concluded that, due to their limited geographical scope, existing cooperation tools among enforcement authorities of Member States are not valid alternatives to an EU-wide system since they are mostly bi-lateral agreements and thus cover only limited parts of the EU territory (Indicator N°24). In addition, based on the available information, the agreements that are effective are those between Germany and the Netherlands and Belgium and the Netherlands. The agreement between Germany and Austria also seems to work effectively, due to the absence of language barriers and translation costs.

Moreover, the analysis found that the successful execution of sanctions for road traffic offences committed by non-residents at the EU level is still affected by the fact that there are not tailor made EU measures ensuring that sanctions for road traffic offences are imposed on non-resident drivers and that sanctions imposed in one Member State are enforced in the Member State where the offender resides and/or has property.

The CBE Directive targets the issue related to the identification of the owner of the vehicle with which an offence was committed when the latter does not reside in the Member State of the offence.

Identifying the owner of the vehicle is indeed crucial to allow Member States the pursuing and punishment of non-resident road traffic offenders. In this respect, the CBE Directive is a very useful tool for Member States that have liability rules in force which do not foresee the identification of the driver as a pre-condition to issue a fine for road traffic offences. According to this Evaluation's findings, such Member States are at least 14.

However, the analysis discovered also that at least 5 Member States may not be able to fully implement the CBE Directive because their liability rules require the identification of the driver as a precondition to issue a fine for road traffic offences.

Concerning the execution of sanctions for road traffic offences, the analysis found that the enforcement rate of sanctions for CBE road traffic offences ensured by the Framework Decision is trivial, i.e. below 5% (Indicator N° 21) for a fair number of EU Member States, since their authorities refrain from transmitting enforcement requests to other Member States' authorities.

This is due to legal issues, i.e. the decisions on financial penalties that can be recognized under the Framework Decision seem to be only the ones issued by Member States that qualify road traffic offences as criminal offences or that in any case foresee that the review of the above decisions is carried out pursuant to a procedure that is similar to that in criminal proceedings.

This also due to the fact that the Framework Decision is formulated in a way that does not ensure legal certainty, to the extent that it is complicated for Member States to assess whether their administrative authorities fulfil all the requirements in order to be qualified as courts having jurisdiction in particular in criminal matters under the Framework Decision as recently interpreted by the Court of Justice in the Baláž Case¹⁷⁰.

Most importantly, the poor application is related to the fact that the requirements of the Framework Decision are burdensome to the extent that under such regime it is nearly impossible to ensure that the transmission of requests for enforcement is carried out electronically.

On this respect, the majority of stakeholders, with experience with the functioning of the FD, confirmed that the electronic transmission of decisions on financial penalties seems to be the only way to ensure that the cross-border enforcement of sanctions for road traffic offences works in an efficient way. This is due to the fact that sanctions for road traffic offences committed by non-resident drivers in one Member State that need to be enforced in other Member States can amount to hundred thousand/millions per year.

Finally, some Member States have not implemented the Framework Decision, thus they cannot enforce sanctions under such tool.

6.1.10.2 Conclusions on the need to elaborate best practices in the automated enforcement of road traffic rules

The Evaluation team assessed that it is premature to conclude whether there is a need to approximate standards for automatic checking equipment at the EU level due to the fact that different standards for automatic checking equipment have not yet been identified by national courts and the consulted stakeholders as obstacles to the cross-border enforcement of road traffic rules (Indicator N° 16).

However, the Team concluded that it would be useful to invite Member States to adopt a consistent approach for the automated enforcement of road traffic rules in order to ensure that the CBE Directive impact on road safety and on enforcement is not affected by inconsistencies in the automatic detection of road traffic offences (Indicator N° 17).

¹⁷⁰ C-60/12.

Such approach should be designed based on principles that were elaborated based on a comparative analysis of Member State case-law and Member States' legislation. It thus takes into account Member States' specificities. The principles are the following:

- Principle of legality, i.e. the relevant primary or secondary legislation of each Member State should specify the kind of equipment that can be used for detecting of road traffic offences and the extent to which the evidence collected through such devices can be used as evidence in judicial proceedings.
- Principle of reliability of the equipment, i.e. Member States should lay down transparent rules on type approval procedures, periodic controls procedures and extraordinary inspections/verification procedures.
- Principle of utility, i.e. Member States should elaborate a strategy for the use of automatic checking equipment aimed at covering aspects such as the identification of the sites where to install devices, the type of devices to be installed and the speed measurement methods to be used. Such strategies should also aim at ensuring that speed control devices' installation and enforcement actions promote a deterrent effect.
- Principle of accuracy of the detection.
- Principle of traceability, i.e. Member States should ensure that the devices used to detect offences can be identified and, consequently, that their reliability can be proved.

6.2 Technical tool for the VRD exchange under the CBE Directive: EUCARIS/CBE Application

This Section aims at assessing the extent to which the CBE Directive is effective. This implies, in other words, measuring the extent to which the EUCARIS/CBE application has facilitated the exchange of specific VRD between EU Member States.

In 2008, the offences committed with a vehicle registered in another EU Member State than the EU Member State where the offence has been committed were often not sanctioned, as mentioned in the Impact Assessment of the CBE Directive, and in section 6.1 of this Report. This problem was particularly critical for offences automatically detected using roadside cameras, where there was no direct contact between the driver and the police.

For this purpose, as stipulated in the recital 6 of the CBE Directive, a software application was put in place ("EUCARIS/CBE Application") using EUCARIS as the technical platform for the data exchange. The implementation of the EUCARIS/CBE Application facilitates enforcement of sanctions related to road safety related traffic offences, irrespective of the Member State of registration of the vehicle, so as to improve road safety throughout the Union and to ensure equal treatment of drivers, namely resident and non-resident offenders.

Seven years after the Impact Assessment of the CBE Directive, the Contractor verified whether EUCARIS has met its objectives and facilitated the exchange of VRD between EU Member States.

Having said that, this section aims to dig further into EUCARIS/CBE application, including its compliance with security and data protection provisions, its level of implementation and use across the EU but also users' satisfaction with EUCARIS and the efficiency of the application. The scope of the effectiveness evaluation indeed consists of:

- **A concise and exhaustive Information and Communications Technology (ICT) assessment of the cross-border exchange of VRD via EUCARIS**, focusing on the security and data protection measures put in place in the application.
- An assessment of the **level of implementation and use by EU Member States of the EUCARIS/CBE application**. This was carried out by verifying the EU Member States allowing other EU Member States to access their data relating to vehicles, owners and holders of the vehicle in question, with the power to conduct automated searches, and by calculating the ratio of failed searches coming out from these automated searches.
- **An assessment of users' satisfaction with the EUCARIS/CBE application and the helpdesk service supporting the operation of the application**. It aimed also to provide an overview of the problems that users have experienced, preventing them from an effective use of EUCARIS. This was particularly focused on the 'outgoing searches', 'exchange of VRD' and 'reporting' functionalities.
- A **comparative analysis** of the EUCARIS/CBE application with other applications having the same business purpose and characteristics, to verify whether EUCARIS is the most cost-effective solution to facilitate the exchange of VRD between EU Member States.

Evaluation study on the application of the CBE Directive

In order to determine whether EUCARIS contributes to the effective implementation of the CBE Directive, including equal treatment of resident and non-resident offenders, the following key performance indicators were used:

- Degree of compliance of the EUCARIS/CBE application with the security provisions of Article 4(4) of the CBE Directive (Indicator N°13).
- Degree of compliance of the EUCARIS/CBE application with the data protection provisions of Article 7 of the CBE Directive (Indicator N°14).
- Percentage of Member States having implemented the EUCARIS/CBE application. (Indicator N°15).
- Number of automated searches (using the EUCARIS/CBE application) related to road safety related traffic offences committed by non-resident offenders out of the total number of road safety related traffic offences (per year and per type of offence) committed by non-resident offenders since 2013 (Indicator N°10).
- Number of failed automated searches (using the EUCARIS/CBE application) related to road safety related traffic offences committed by non-resident offenders out of the total number of automated searches (using the EUCARIS/CBE application) related to road safety related traffic offences committed by non-resident offenders (Indicator N°11).
- Degree of satisfaction in the use of the EUCARIS/CBE application (Indicator N°12).

Two additional indicators, defined at the Study inception, served as a basis to understand the context in which the EUCARIS/CBE application was developed and its potential for contributing to the equal treatment of resident and non-resident road traffic offenders. These indicators are listed below.

- Number of road safety related traffic offences committed by non-resident offenders (per MS, per year and per type of offence covered by the CBE Directive) since 2013 out of the total number of road safety related traffic offences committed (per MS, per year and per type of offence covered by the CBE Directive) since 2013 (former Indicator N°8).
- Number of automatically detected road safety related traffic offences committed by non-resident offenders (per MS, per year and per type of offence covered by the CBE Directive) since 2013 out of the total number of road safety related traffic offences committed by non-resident offenders (per MS, per year and per type of offence covered by the CBE Directive) since 2013 (former Indicator N°9).

In this respect, Section 6.2.2, which aims to set the ground for the evaluation of the CBE Directive, provides an analysis of the road safety related traffic offences committed by non-resident offenders in EU Member States.

6.2.1 Introduction

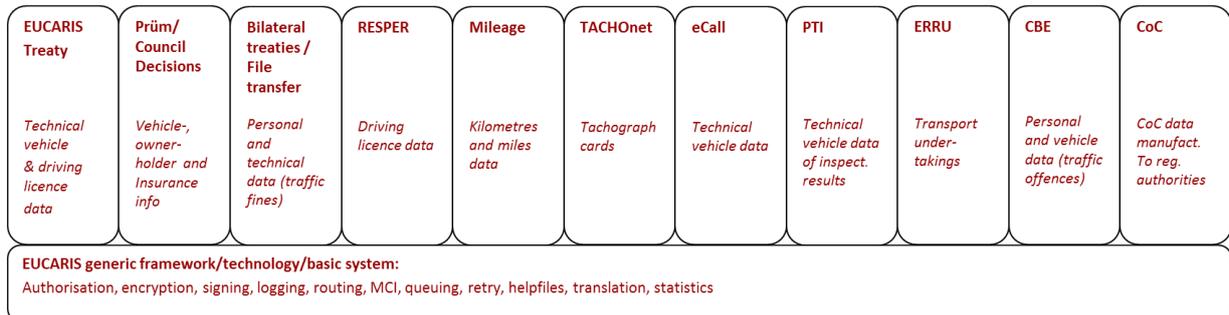
Before digging further into the effectiveness of EUCARIS, a distinction should be made between the **EUCARIS information system**, established by the EUCARIS Treaty¹⁷¹, and the **EUCARIS/CBE application**, referred to in the CBE Directive.

EUCARIS is the technical platform used for the data exchange, which is installed on the national level by each country, and based on XML and web-service technology. EUCARIS is made of two components.

- A multi-lingual web-client is offered to Member States to send requests, via browsers, to other countries.
- A second component is the core application, which consists of a library with generic functions (e.g. message routing, security, logging) and different web-services (functionalities/applications).

In this regards, EUCARIS is the technical platform offering different applications including the EUCARIS/CBE application beside others. The use of EUCARIS is however not limited to the CBE application. Other applications, such as the European Register of Road Transport Undertaking (ERRU), driving licence data (RESPER), tachograph cards (TACHOnet), and vehicle-, owner-holder and insurance information (Prüm), also use its technology, as displayed in the Figure 2 below. The EUCARIS/CBE application is one functionality of EUCARIS, created for the purpose of exchanging Vehicle Registration Data between EU Member States by automated searches for data related to vehicles, owners or holders.

Figure 2 EUCARIS as a technical framework to support legal ones



In this regard, while the compliance to security and data protection provisions of Article 4(4) and Article 7 of the CBE Directive is evaluated for EUCARIS technical layer¹⁷² (Section 6.2.3), the level of implementation (Section 6.2.4), use (Section 6.2.5) and satisfaction (Section 6.2.6) as well as the efficiency (Section 6.2.7) are assessed for the EUCARIS/CBE application (software application layer).

¹⁷¹ [Treaty concerning a European Vehicle and Driving Licence Information System \(EUCARIS\), Luxembourg, 29 June 2000.](#)

¹⁷² EUCARIS information system is responsible for the exchange of vehicle and owner/holder data. In this regard, the system must comply with the data protection and security measures included in the CBE Directive.

6.2.2 State of play on road safety related traffic offences committed by non-resident offenders

As mentioned in the above introduction, the purpose of the CBE Directive is to ensure equal treatment of drivers, whether resident or non-resident, for eight types of offences. Article 2 of the CBE Directive recognises the following eight road safety related traffic offences:

1. Speeding
2. Non-use of a seat-belt
3. Failing to stop at a red traffic light
4. Drink-driving
5. Driving under the influence of drugs
6. Failing to wear a safety helmet
7. Use of a forbidden lane
8. Illegally using a mobile telephone or any other communication devices while driving

In this section, we first detail the share of the above road safety related traffic offences committed by non-resident offenders out of the total number of road safety related traffic offences committed in the EU since 2013. The latter year was chosen as the starting date of the analysis since it is the deadline by when all EU Member States, with the exception of DK, IE and the UK as previously explained, had to transpose the CBE Directive at the national level.

As mentioned in Art. 12 of the CBE Directive, "Member States shall [have brought] into force the laws, regulations and administrative provisions necessary to comply with [the CBE] Directive by 7 November 2013".

Based on the results of the surveys and desk research, the **share of offences committed by non-resident offenders (Indicator N°8)** are displayed in Table 10 for 13 EU Member States. This indicator is derived by dividing the overall number of offences committed by non-resident offenders by the total number of offences for each year considered.

Table 10 Share of offences committed by non-resident offenders

Share of road safety related traffic offences committed by non-resident offenders in 13 EU Member States										
	2013			2014			2015			Comment
	Total number of offences	Number of offences committed by non-resident offenders	Share of offences committed by non-resident offenders	Total number of offences	Number of offences committed by non-resident offenders	Share of offences committed by non-resident offenders	Total number of offences	Number of offences committed by non-resident offenders	Share of offences committed by non-resident offenders	
AT	4,999,600	999,920	20%	4,000,000	800,000	20%	4,000,000	800,000	20%	Estimate
BE	3,663,149	200,633	5%	3,849,588	308,821	8%	-	-	-	-
EE	67,086	2,610	4%	66,426	1,782	3%	52,803	1,828	3%	01.01.2015 – 30.09.2015
FR	13,375,875	1,859,479	14%	14,601,346	2,918,012	20%	14,308,813	2,617,924	18%	01.01.2015 – 30.09.2015
HR	394,998	58,855	15%	457,219	68,126	15%	-	-	-	-
HU	549,173	42,932	8%	477,958	36,529	8%	255,842	55,626	22%	01.01.2015 – 31.08.2015

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Share of road safety related traffic offences committed by non-resident offenders in 13 EU Member States										
	2013			2014			2015			Comment
LT	-	-	-	200,988	4,630	2%	85,583 ¹⁷³	8,222	10%	01.01.2015 – 31.08.2015
LV	135,659	13,417	10%	143,682	15,320	11%	92,167	10,468	11%	01.01.2015 – 31.08.2015
NL	8,852,993	616,759	7%	7,126,923	593,026	8%	5,777,614	602,403	10%	01.01.2015 – 31.10.2015
PL	3,890,799	-	-	3,769,173	204,610	5%	2,006,900	78,342	4%	01.01.2015 – 30.06.2015
SE	-	-	-	245,806	10,186	4%	-	-	-	-
SI	166,550	6,680	4%	184,980	7,684	4%	129,694	5,663	4%	01.01.2015 – 31.08.2015
SK	349,050	-	-	373,418	37,654	10%	181,058	16,660	9%	01.01.2015 – 30.06.2015

Source: Answers received to Q1 and Q2 of 'Questionnaire on statistical data'; Q1.11 of 'Questionnaire addressed to Member States' authorities' and Q2.16 of 'Questionnaire addressed to other relevant transport stakeholders'; desk research; 11.12.2015.

Notes: Data based on the inputs provided by 13 EU Member States, AT, BE, EE, FR, HR, HU, LT, LV, NL, PL, SE, SI and SK. No data were made available by the other EU Member States.

The share of offences committed by non-resident offenders was calculated by dividing the total number of road safety related traffic offences committed by non-resident offenders by the total number of road safety related traffic offences committed by resident and non-resident offenders, for the years 2013, 2014 and 2015. The calculation is limited to the eight types of offences described in Article 2 of the CBE Directive.

The periods indicated in the 'Comment' column relate to the periods to which the 2015 figures relate for each country. For AT 'Estimate' is mentioned to highlight that the figures provided by the respondent were not evidence-based figures.

When $\geq 20\%$ of the offences were committed by non-resident offenders in a country, this figure is highlighted in red. When $\leq 5\%$ of the offences were committed by non-resident offenders in a country, this figure is highlighted in green.

The data reported by 13 EU Member States shows that, overall, the **road traffic related offences committed by non-residents offenders in the period 2013-2015, were between 2% and 22%, depending on the country.**

Except for HU and LT where this share has significantly increased between 2014 and 2015, **the share of offences committed by non-residents tends to be relatively stable for the other countries over years.**

While the data on the number of road traffic related offences committed at the national level per type of offences were collected for 13 EU Member States, when it came to the number of offences committed by non-resident offenders per type of offence, data were collected for seven EU Member States only, as displayed in Table 11. This indicator is derived by dividing the number of offences committed by non-resident offenders by the total number of offences, for each type of offence and each year considered.

¹⁷³ The respondent declared that 68,466 offences were detected from 1 January 2015 to 31 May 2015 and 8,222 offences were committed by non-resident offenders between 1 January 2015 and 31 August 2015. The former number was thus extrapolated of three months $((68,466/5)*8=85,583)$.

Table 11 Share of offences committed by non-resident offenders (per type of offence)

Share of road safety related traffic offences committed by non-resident offenders in seven EU Member States (per type of offence)																								
	Speeding			Non-use of a seat-belt			Failing to stop at a red traffic light			Drink-driving			Driving under the influence of drugs			Failing to wear a safety helmet			Use of a forbidden lane			Illegally using a mobile telephone or any other communication devices while driving		
	2013	2014	2015	2013	2014	2015	2013	2014	2015	2013	2014	2015	2013	2014	2015	2013	2014	2015	2013	2014	2015	2013	2014	2015
BE	6%	9%	-	3%	3%	-	3%	4%	-	5%	4%	-	6%	6%	-	3%	3%	-	5%	5%	-	2%	2%	-
EE	6%	4%	5%	1%	1%	3%	1%	1%	1%	1%	1%	1%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	1%	1%
FR	16%	22%	20%	1%	1%	1%	5%	6%	5%	0%	0%	1%	0%	0%	0%	0%	0%	0%	2%	3%	1%	0%	1%	1%
HU	9%	9%	31%	6%	6%	4%	4%	3%	4%	3%	2%	3%	-	-	-	2%	1%	1%	3%	4%	3%	3%	2%	2%
LV	13%	13%	14%	4%	4%	5%	8%	6%	6%	4%	4%	4%	9%	4%	3%	2%	1%	2%	7%	7%	10%	4%	3%	5%
NL	7%	9%	11%	2%	2%	2%	3%	3%	2%	9%	9%	8%	-	-	-	1%	1%	1%	2%	4%	5%	3%	3%	3%
PL	-	7%	6%	-	0%	0%	-	1%	1%	-	1%	0%	-	0%	0%	-	0%	0%	-	-	-	-	0%	0%
Weighted average	10%	15%	16%	2%	1%	1%	4%	5%	4%	1%	1%	1%	1%	1%	1%	0%	0%	0%	4%	4%	1%	1%	1%	1%
Total Weighted Average	14%			1%			5%			1%			1%			0%			4%			1%		

Source: Answers received to Q1 and Q2 of 'Questionnaire on statistical data'; Q1.11 of 'Questionnaire addressed to Member States' authorities' and Q2.16 of 'Questionnaire addressed to other relevant transport stakeholders'; desk research; 11.12.2015.

Notes: Data based on the inputs provided by 7 EU Member States, BE, EE, FR, HU, LV, NL and PL. No data were made available by the other EU Member States.

The share of offences committed by non-resident offenders was calculated by dividing the total number of road safety related traffic offences committed by non-resident offenders by the total number of road safety related traffic offences committed by resident and non-resident offenders, for each type of offence described in Article 2 of the CBE Directive and for the years 2013, 2014 and 2015.

The weighted average is calculated by dividing the number of road safety related traffic offences committed by non-resident offenders by the total number of road safety related traffic offences committed by resident and non-resident offenders, for each type of offence described in Article 2 of the CBE Directive and for each year between 2013 and 2015. The same formula applies for the total weighted average, but over the whole 2013-2015 period.

When $\geq 20\%$ of the offences were committed by non-resident offenders in a country, this figure is highlighted in red.

When looking at the share of offences committed by non-resident offenders per type of offence, it appears that **the highest percentage of offences committed by non-resident offenders is related to speeding offences**, and to a lesser extent failing to stop at a red traffic light and use of a forbidden lane. In fact, depending on the country, up to 31% of all speeding offences were committed by non-resident offenders.

On the other hand, the **lowest percentage of offences committed by non-resident offenders is related to the failure to wear a safety helmet**.

These figures confirm the findings from the impact assessment of the CBE Directive¹⁷⁴, which states that the share of non-residents in road traffic appears to be around 5% on average; but, when it comes to speeding offences, this figure can go up to 30%.

It should be noted that the offences that score the highest percentage on average in Table 11 tend to be those that can be automatically detected by Member States: speeding offences and failing to stop at a red traffic light.

All countries are able to automatically detect speeding offences, except LU where automatic devices are planned to be installed in 2016. Failing to stop at a red traffic light and using a forbidden lane can be automatically detected by some countries; however, none is able to automatically detect drink-driving or driving under the influence of drugs. In these cases, the enforcement of rules is mainly carried out through random checks on the road.

In addition, EU Member States are not able either to automatically detect the non-use of a seat belt, safety helmet or the illegal use of a mobile telephone or any other communication device while driving, unless the pictures taken by speed cameras allow them to detect this offence.

As a matter of fact, it is easier for EU countries to track offences that can be automatically detected, whether it concerns resident or non-resident offenders. Section 6.2.5 will dig further into automatically detected offences.

6.2.3 Compliance of EUCARIS with security and data protection provisions

Security and data protection provisions are clearly stipulated in the CBE Directive. As stated in Art. 4 (4), "Member States shall ensure [...] the security and protection of the data transmitted, as far as possible using existing software applications such as the one especially designed for the purposes of Article 12 of Decision 2008/615/JHA, and amended versions of those software applications, in compliance with Annex I to this Directive and with points 2 and 3 of Chapter 3 of the Annex to Decision 2008/616/JHA".

Since this Article directly refers to the EUCARIS for the purpose of the CBE, the evaluation assessed the degree of compliance of EUCARIS with the security provisions of Article 4 (4) of the CBE Directive (Indicator N°13). This was carried out by means of in-depth interviews with RDW/NL and desk research.

The results of interviews with RDW/NL and desk research confirmed that the exchange of information of VRD between Member States via **EUCARIS is in full compliance with the security provisions of Article 4(4).**

First, the system architecture and description of EUCARIS itself is based on Decisions 2008/615/JHA and 2008/616/JHA, as confirmed by desk research and the interviewees.

¹⁷⁴ COM(2008) 151, Commission Staff Working Document, accompanying the 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, Brussels, 19.3.2008.

Second, EUCARIS implemented the following security measures to ensure compliance with the CBE:

- Use of sTESTA¹⁷⁵ - Secure data transmission
- Secure Sockets Layer (SSL) - Secure data transmission
- XML-signing – Data integrity
- User group segregation – Secure authentication/authorisation
- Logging of all exchanged messages (audit trail) – Traceability and non-repudiation.

Moreover, as stated in Article 7 of the CBE Directive, the provisions on data protection set out in Framework Decision 2008/977/JHA¹⁷⁶ must also apply to personal data processed under the CBE Directive. Since this Article directly refers to the EUCARIS for the purpose of the CBE, the evaluation assessed the degree of compliance of EUCARIS with the provisions on data protection set out in Framework Decision 2008/977/JHA (Indicator N°14).

The results of the interview with RDW/NL confirmed that **the data protection provisions set in Article 7 are all met by EUCARIS; however, some legal provisions do not apply to the system.**

In fact, the legal provisions set in this Article, in particular those related to the storage of personal data, are not relevant to EUCARIS since **the latter only transfers data from one EU Member State to another**. In this regards, the system does not store any information apart from those included in the logging, as part of the security measures. This information is retained in accordance with the related legislation on data protection. The organisation responsible for the follow-up enforcement procedures stores other information in its information systems but not in EUCARIS. Moreover, information is not available for public use but limited to specific user groups and the administrators from the IT departments of the different national organisations, where specific procedures are in place to guarantee their liability.

6.2.4 Level of implementation of EUCARIS/CBE application

On the basis of interviews with RDW/NL and desk research, the Evaluation provides the status of the EUCARIS/CBE application implementation in the period 2013-2015 in Table 12 (Indicator N°15).

¹⁷⁵ The EUCARIS server also supports multiple certificates from multiple PKI providers. Currently the EUCARIS Member States run their own managed PKI guaranteeing integrity and exclusiveness. The use of sTESTA can therefore be considered as an extra security measure.

¹⁷⁶ Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters, OJ 350/60, Brussels, 30.12.2008.

Table 12 Level of implementation of EUCARIS/CBE across the EU

EUCARIS/CBE application status implementation			
	2013	2014	2015
AT	NI	P	P
BE	NI	P	P
BG	NI	P	P
CY	NI	NI	NI
CZ	NI	NI	NI
DE	UC	P	P
DK	OO	OO	NI
EE	NI	T	P
EL	NI	UC	P
ES	NI	P	P
FI	NI	NI	NI
FR	UC	P	P
HR	NI	UC	P
HU	NI	P	P
IE	OO	OO	NI
IT	NI	T	A
LT	UC	P	P
LU	UC	UC	T
LV	NI	P	P
MT	NI	NI	P
NL	UC	P	P
PL	UC	P	P
PT	NI	NI	NI
RO	NI	P	P
SE	UC	P	P
SI	NI	NI	T
SK	NI	P	P
UK	OO	OO	NI

Legend:		
	# in production	P
	# accepted, pending	A
	# in acceptance	T
	# under construction	UC
	# Opt-out	OO
	# no initiatives (yet)	NI

Source: EUCARIS Services; status per Member State as of 01.09.2013, 12.12.2014 and 08.10.2015. Non published documents provided by RDW/NL.

Notes: The table provides the status of the EUCARIS/CBE application implementation as of 01.09.2013 (i.e. it does not consider the last months of 2013), 12.12.2014 and 08.10.2015.

As mentioned in the legend, **"P" refers to "in production"**: the application is operational, meaning that a Member State allows other Member States' national contact points access to their data relating to vehicles, owners and holders of the vehicle in question, with the power to conduct automated searches; **"A" refers to "accepted, pending"**: a Member State passed the implementation test with RDW/NL and is waiting for the final decision of their competent ministry; **"T" refers to "In acceptance"**: a Member State is in testing phase (implementation test with RDW/NL); **"UC" refers to "under construction"**: a Member State has initiated the implementation of the EUCARIS/CBE application; **"OO" refers to "Opt-out"**: DK, UK and IE used their right to opt out of the CBE Directive until it changed legal basis in 2015 and moved from Justice and Home Affairs to transport; and **"NI" refers to "No initiative"**: No step has been taken towards the implementation of the CBE Directive.

As mentioned previously, the CBE Directive had to be implemented by 25 EU Member States by 7 November 2013 while three EU Member States¹⁷⁷ have until 6 May 2017 to do so.

Our findings show that the EUCARIS/CBE application was operational in 14 EU Member States in 2014. This represents 56% of the legal target of 25 EU Member States.

On the other hand, four additional Member States (i.e. EE, EL, HR and MT) had EUCARIS/CBE application in production in 2015. As a result, some progress towards the

¹⁷⁷ On EU Justice and Home Affairs (JHA) matters, DK, IE and UK indeed have the right to opt-out any measures, which they did for the CBE Directive. When the Directive 2015/413 facilitating cross-border exchange of information on road-safety-related traffic offences was adopted, the legal basis moved from JHA to transport. The opt-out system was therefore no longer valid. The three countries now have until 6 May 2017 to transpose the legislation at national level.

legal target was made (72%). This means that **18 EU Member States allow other Member States' national contact points access to their data** relating to vehicles, owners and holders of the vehicle in question, with the power to conduct automated searches.

In addition, the Evaluation notes that in 2015, one EU Member State (IT) was waiting for the final decision of their competent ministry after having passed the implementation test with RDW/NL and two EU Member States (SI, LU) were in the testing phase. On the other hand, four EU Member States (CY, CZ, PT and FI) had not yet started implementing the application (16%).

In 2015, two years after the legal deadline to transpose the CBE Directive, the Evaluation confirms that **seven EU Member States, i.e. CY, CZ, FI, IT, LU, PT and SI (28%), were not compliant with the legal provisions from the CBE Directive in 2015**. The main reasons for these countries not having implemented the EUCARIS/CBE application on time are primarily political (not a top priority in the political agenda for some public administrations) but may also be economic, when the resources needed to implement the application are not available.

Table 13 further details the status of implementation of EUCARIS/CBE application in each of these countries, as of October 2015.

Table 13 Status of implementation of EUCARIS/CBE application in CY, CZ, FI, IT, LU, PT and SI

EU Member State	Status of implementation of EUCARIS/CBE application
CY	CY has for a number of services already connected to EUCARIS but not for the CBE due to their lack of interest for this service.
CZ	CZ has given priority to RESPER ¹⁷⁸ where they have already implemented their application but should start soon with the implementation of EUCARIS/CBE
FI	Finnish Transport Safety Agency "Trafi" has not been able to build up a CBE connection into EUCARIS yet.
IT	IT passed the test with RDW/NL; the implementation is now pending the final decision of the competent ministry.
LU	LU is in the testing phase.
PT	No information on the status of implementation of EUCARIS/CBE application.
SI	SI is in the testing phase.

Source: Interview with RDW/NL on 15.09.2015; EUCARIS Services; status per Member State as of 01.09.2013, 12.12.2014 and 08.10.2015. Non published documents provided by RDW/NL.

To conclude, the 18 EU Member States for which the EUCARIS/CBE application is operational could not access the data of these seven countries when it comes to vehicles, owners and holders of the vehicle in question, with the power to conduct automated searches. Reciprocally, these countries could not access the database from the 18 EU Member States for which the EUCARIS/CBE application is operational, for data related to vehicles, owners or holders.

¹⁷⁸ The main functionality of RESPER is to enable a search for a person (applying for a driving licence) through Europe in order to check whether this person already holds an EU licence issued by another state.

While IT, LU and SI were progressing towards the implementation of the application, the other Member States had not put in place any initiative despite the obligations set out in Article 12 of the CBE Directive.

6.2.5 Level of use of EUCARIS/CBE application

As defined in Art. 3(m) of the CBE Directive, 'automated search' means "an online access procedure for consulting the databases of one, several, or all of the Member States or of the participating countries" for data related to vehicles, owners or holders.

Based on the findings from Section 6.2.4, **18 EU Member States allow other Member States' national contact points access to their data** relating to vehicles, owners and holders of the vehicle in question, with the power to conduct automated searches.

These countries, where the EUCARIS/CBE application is operational, however are not all conducting automated searches with each other (bilateral exchanges). As displayed in Table 13, **the EUCARIS/CBE application is not used by four EU Member States (4), i.e. EE, MT, RO and SE for outgoing searches. It is also not used by SK and LU.**

Table 14 Exchange of VRD using EUCARIS/CBE application in February 2016

	AT	BE	BG	DE	EE	EL	ES	FR	HR	HU	IT	LT	LV	MT	NL	PL	RO	SE	SK
AT	X	←	←	←					←*	←		←				←			
BE	←	X	←	←			←*	←	←*			←			←	←			
BG	←	←	X	←					←*	←		←				←			
DE	←	←	←	X			←*	←	←*	←	←*	←	←*		←	←			
EE	←*				X				←*							←			
EL				←*		X			←*										
ES	←*			←*			X	←*	←*							←			
FR	←*	←*	←*	←*			←*	X	←*	←*	←*	←			←	←			←*
HR	←*	←*	←*	←*		←*	←*		X			←*				←*			
HU	←	←	←	←					←*	X		←				←			
IT	←*			←*			←*				X								
LT	←	←	←	←					←*	←		X				←			
LU				←*				←											
LV	←*			←*					←*				X			←			
MT				←*					←*					X		←			
NL	←	←	←	←			←*	←	←*	←		←			X	←			
PL	←	←	←	←				←*	←*	←		←			←*	X			
RO	←		←	←*				←*	←*	←		←				←	X		
SE	←		←	←					←*	←		←				←		X	
SK	←			←*					←*	←						←			X

Mutual exchange of information

Unilateral exchange of information

← Searches made by the country of the column in the country of the row

* Information gathered in 2016 from a written request made to AT, FR, ES, HR, NL and DE.

Source: Reporting obligations; written requests to AT, FR, ES, HR, NL, DE, February 2016.

Note: The table includes the countries for which the EUCARIS/CBE application is operational in February 2016. As indicated in Table 13, the EUCARIS/CBE application was not yet operational in IT in 2015. However, at the time of this report, the exchange of information between Italy and France and Italy and Germany has started. IT is therefore included in the above Table 14.

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The table should be read from the column to the row, e.g. AT has made searches in 16 EU MSs: BE, BG, DE, EE, ES, FR, HR, HU, IT, LT, LV, NL, PL, RO, SE and SK. While this information is based on the reporting made by AT to the European Commission in 2014 for BE, BG, DE, HU, LT, NL, PL, RO, SE and SK (←); for FR and HR the information is coming from a written request from FR and HR (*); and for EE, ES, IT and LV the information is coming from a written request to AT (*). Out of all these searches made, seven are bilateral (cells coloured in green in the first column 'AT'– BE, BG, DE, HR, HU, LT, PL) and nine are unilateral (cells coloured in grey in the first column 'AT'– EE, ES, FR, IT, LV, NL, RO, SE, SK). The same legend applies to the whole table.

As of February 2016, the EUCARIS/CBE application is operational in a total of 20 countries, i.e. all those included in Table 14. As previously mentioned, while all these countries allow other Member States' national contact points access to their data relating to vehicles, owners and holders of the vehicle in question, with the power to conduct automated searches, they do not necessarily all perform outgoing searches or sometimes only do so in specific countries. For instance, while the NL receives requests from AT, BE, BG, DE, ES, FR, HR, HU, LT and PL, they only made/make requests in BE, DE and FR. On the other way around, NL did not receive any request from EE, EL, IT, LV, MT, RO, SE and SK since those countries are not or barely using the EUCARIS/CBE application.

In fact, the EUCARIS/CBE application is not used at all by EE, MT, RO and SE for outgoing searches, mainly due to the lack of resources available and the difficulties faced due to the differences in MSs liability systems.

As a result, there is space for improvements in the number of bilateral, but also unilateral, exchange of information.

Even though the CBE Directive did not mandate EU Member States to perform automated searches, this would have directly contributed to its effective implementation. Indeed, automated searches would have facilitated the exchange of specific Vehicle Registration Data ("VRD") between EU Member States and thereby the enforcement of sanctions, where those offences were committed with a vehicle registered in a Member State other than the Member State where the offence took place.

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When it comes to the number of automated searches (using the EUCARIS/CBE application) related to road safety related traffic offences committed by non-resident offenders since 2013, the analysis is based only on seven EU Member States¹⁷⁹ (7) having performed these searches. The results of desk research and surveys confirms that **FR and BE are the only countries having performed automated searches since 2013**¹⁸⁰, as displayed in Table 15 (Indicator N°10). The other countries performed their first outgoing searches in 2014 or later.

Table 15 Use of EUCARIS/CBE application for conducting searches

Number of automated searches (using EUCARIS/CBE application) performed since 2013															
2013					2014					2015					
Number of offences committed by non-resident offenders	Number of automatically detected offences committed by non-resident offenders	Total number of outgoing searches	% searches performed on offences committed by non-resident offenders	% searches performed on automatically detected offences committed by non-resident offenders	Number of offences committed by non-resident offenders	Number of automatically detected offences committed by non-resident offenders	Total number of outgoing searches	% searches performed on offences committed by non-resident offenders	% searches performed on automatically detected offences committed by non-resident offenders	Number of offences committed by non-resident offenders	Number of automatically detected offences committed by non-resident offenders	Total number of outgoing searches	% searches performed on offences committed by non-resident offenders	% searches performed on automatically detected offences committed by non-resident offenders	
BE	200,633	-	57	0%	-	308,821	-	168,562	55%	-	-	-	144,834	-	-
FR	1,859,479	542,542	542,542	29%	100%	2,918,012	1,406,263	1,406,263	48%	100%	2,617,924	2,601,930	1,384,690	53%	53%
HU	42,932	25,979	0	0%	0%	36,529	17,069	13,640	37%	80%	55,626	52,308	133,655	N/A	N/A
HR	-	-	-	-	-	-	-	-	-	-	-	-	1,396	-	-
NL	616,759	607,285	-	-	-	593,026	583,817	-	-	-	602,403	598,391	575,607	96%	96%
LT	-	-	-	-	-	-	4,630	4,630	N/A	100%	-	8,222	8,222	N/A	100%
PL	-	-	-	-	-	204,610	197,470	13,286	6%	7%	78,342	73,450	34,546	44%	47%

Source: Answers received to Q2, Q3 and Q4 of 'Questionnaire on statistical data'; Q1.12, Q1.13 and Q1.14 of 'Questionnaire addressed to Member States' authorities' and Q2.17 and Q2.19 of 'Questionnaire addressed to other relevant transport stakeholders'; desk research; 11.12.2015

Note: The latest data available for each country is highlighted in red. The "% searches performed on offences committed by non-resident offenders" is calculated by dividing the "total number of outgoing searches" by "the total number of offences committed by non-resident offenders". The % searches performed on automatically detected

¹⁷⁹ These correspond to the countries using the EUCARIS/CBE application for outgoing searches and these from which relevant data were received by the Contractor.

¹⁸⁰ Please note that they started after September 2013. This is the reason why Table 12 does not specify that BE and FR were connected to EUCARIS in 2013.

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offences committed by non-resident offenders” is calculated by dividing the “total number of outgoing searches” by the total “number of automatically detected offences committed by non-resident offenders”.

The Belgian Police is not able to make the distinction between automatically/non-automatically detected offences. This data is therefore not included in the above Table.

As depicted in Table 16, the **EUCARIS/CBE application tends to be used to track less than half of the total number of offences committed by non-resident offenders, except in the NL where almost all offences were followed by a search in 2015.**

On the other hand, **the EUCARIS/CBE application allows tracking more than 50% of the automatically detected offences committed by non-resident offenders in the countries for which the Contractor gathered data.**

In the cases of FR in 2013 and 2014 and LT in 2014 and 2015, all the automatically detected offences committed by non-resident offenders (i.e. speeding, failing to stop at a red traffic light) were followed by a search using the EUCARIS/CBE application.

One can assume that 100% of automatically detected offences followed by a search with EUCARIS is the target aimed to be reached by all EU countries over years. The progress made by PL between 2014 and 2015 moves, for example, towards that direction. These numbers however do not provide any view on the number of failed searches.

While the definition of 'automated search' is clearly established in the CBE Directive, no definition is stipulated for a 'failed search'. The Evaluation team refers to 'failed search' as the state or condition of not being able to access the desired data in the consulted database(s) of an operational Member State, preventing a Member State from identifying a non-resident offender.

Other reasons for search failure, e.g. the EUCARIS application is not operational in the targeted country or the searched plate number corresponds to a non-resident offender from outside of the EU, go beyond the scope of the EUCARIS/CBE application and are therefore not dealt with in this context.

In this regards, the Evaluation assessed the percentage of failed outgoing searches carried out via the EUCARIS/CBE application in the EU/per Member State/per type of offence covered by the CBE Directive for 2013-2015 (Indicator N°11).

Initially, this was carried out by means of desk research on data reported by EU Member States to the Commission in 2014 and consolidated by the European Commission in 2015¹⁸¹.

Indeed, as mentioned in Art. 6, Member States must send a preliminary report to the Commission by 7 November 2014. This report must indicate the number of automated searches conducted by the Member State of the offence addressed to the national contact point of the Member State of registration following offences committed on its territory, together with the type of offences for which requests were addressed and the number of failed requests.

The consistency and completeness of the data reported by the EU Member States to the European Commission was not considered adequate by the Evaluation.

¹⁸¹ Preliminary report – Article 6 Directive 2011/82/EU, implementation of VRD exchange in 2014 (not published), March 2015.

First of all, the reported data are available only for 2014.

Second, the Evaluation identified the following data inconsistencies:

- The data reported by AT and BE showed a delta between the number of outgoing and failed searches and the total number of outgoing and failed searches data included in the preliminary report on the implementation of VRD exchange in 2014 (Article 6 of the CBE Directive) prepared by the European Commission¹⁸².
- The data reported by BG showed a delta between the number of failed searches and the total number of outgoing and failed searches data included in the preliminary report.
- RO, SK, and LV did not report data on the number of outgoing and failed searches data¹⁸³.
- ES did not report data on outgoing and failed searches; reporting was not technically feasible since tests were being run on connection between the Spanish software programmes (ATEX and PSAN among others) dealing with the cross-border exchange of information.
- PT and MT reported data on outgoing and failed searches while these two countries were not connected to the EUCARIS/CBE application at that time.

As a consequence, the surveys, as well as written requests, addressed specific questions related to the outgoing searches performed and the failed searches to EU Member States for which the EUCARIS/CBE application was operational. The scope of countries analysed is therefore the same as for the previous section, excluding LT for which no data on failed searches were provided to the Contractor.

Based on the responses from EU Member States, Table 16 displays the key findings on failed searches.

Table 16 Failed searches resulting from the use of EUCARIS/CBE application

	Number of failed automated searches (using EUCARIS/CBE application)								
	2013			2014			2015		
	Total number of outgoing searches	Number of failed searches	% of failed searches	Total number of outgoing searches	Number of failed searches	% of failed searches	Total number of outgoing searches	Number of failed searches	% of failed searches
BE	57	2	4%	168,562	2,776	2%	144,834	1,207	1%
FR	542,542	9,520	2%	1,406,263	66,351	5%	1,384,690	50,021	4%
HR	-	-	-	-	-	-	1,396	951	68%
HU	-	-	-	13,640	10,246	75%	133,655	47,335	35%
NL	-	-	-	-	-	-	575,607	132,390	23%
PL	-	-	-	13,286	2,533	19%	34,546	4,813	14%

Source: Answers received to Q4 and Q5 of 'Questionnaire on statistical data'; Written requests; 11.12.2015

¹⁸² Preliminary report – Article 6 Directive 2011/82/EU, implementation of VRD exchange in 2014 (not published), March 2015.

¹⁸³ The reporting submitted by LV was limited to the number of offences detected.

The above results confirm that **the quality of the search results using the EUCARIS/CBE application has significantly increased year-over-year**, with the exception of FR which had a lower failure rate in 2013 (2% vs. 5% in 2014 and 4% in 2015). Since 2013, the number of searches performed was multiplied by almost three, leaving the relative number of successful searches significantly higher in 2014 and 2015 than in 2013.

Taking into account the total number of failed searches performed by the six countries out of the total number of searches conducted in 2015, on average, **less than 10% of the searches performed have resulted in a failure** (7.43%), which is assessed as rather low.

A search via EUCARIS can fail at several points in time and for different reasons. The following were listed by the respondents as ways in which a search can fail:

- First, the request itself can fail due to a session timeout, an invalid request format, too much information requested or an incorrect search input (e.g. syntax of licence plate number non-existent).
- Secondly, when the request goes through, it may not generate any result: the service/VRD legacy system may be (temporarily) unavailable, the response file may be too big.
- Thirdly, when the request does generate a result, the data may not always be exploitable: too many vehicles found, no vehicle found; vehicle found but scrapped, stolen or outdated; vehicle found but no holder found; vehicle found but the holder data is unavailable or not disclosed (e.g. state vehicles or diplomatic ones).

6.2.6 End users' satisfaction with the EUCARIS/CBE application

Another construct that is part of the measurement of effectiveness is the satisfaction of end-users with the EUCARIS/CBE application. This approach, supported by the literature¹⁸⁴, assumes that the extent to which a system has achieved its objectives from a user's point of view can determine the effectiveness of this system (Indicator N°12).

Since no survey has ever been submitted to Member States to measure their satisfaction with the EUCARIS/CBE application or the service provided by RDW/NL, the Contractor addressed a satisfaction survey to the EUCARIS/CBE application's user groups on 8 October 2015.

15 out of the 18 EU Member States¹⁸⁵, having the EUCARIS/CBE application operational, answered the satisfaction survey (AT, BE, DE, EE, ES, FR, HR, HU, LT, LV, NL, PL, RO, SE, SK). The representatives from Gibraltar, Iceland and Jersey also replied to the satisfaction survey. Their answers were however not considered in this report, since the CBE Directive is not addressed to them.

¹⁸⁴ Information Technology Management and Organizational Innovations, Pennsylvania State University at Harrisburg, 19-22.05.1996.

¹⁸⁵ The satisfaction survey was submitted to registration authorities (one answer per country received).

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Table 17 Key findings from the satisfaction survey on EUCARIS/CBE application

Questions	Answers received from the respondents of the EUCARIS satisfaction survey														
	C1	C2	C3	C4	C5	C6	C7	C8	C9	C10	C11	C12	C13	C14	C15
Q1. To what extent do you agree that the EUCARIS application supports the proper implementation of the CBE Directive?	10	10	10	10	10	7,5	10	10	10	10	10	10	10	10	10
Q2. What is your overall satisfaction with the EUCARIS CBE service? Please rank your satisfaction with the EUCARIS CBE service from 0 to 10?	10	9	10	9	8	8	9	9	10	8	9	8	9	9	9
Q3. To what extent has the EUCARIS CBE service met your expectations?	9	9	10	9	8	9	9	9	10	9	9	8	9	9	10
Q4. In your opinion, how is the EUCARIS CBE application compared with an ideal information exchange system?	9	9	9	9	7	-	8	9	9	9	9	8	8	9	-
Q5. What is your overall satisfaction with the other functionalities (e.g. for Prüm) offered by EUCARIS?	9	9	10	9	-	-	-	10	9	10	9	8	9	9	-
Q6. How likely is it that you would recommend EUCARIS within your Member State to exchange VRD for other purposes such as tolls, parking fees, taxes, etc. provided that a legal base for the exchange is present?	10	9	10	10	7	7	9	8	9	10	10	10	9	9	-
Q7. What is your overall satisfaction with the EUCARIS helpdesk support?	10	-	9	10	-	-	9	9	10	10	9	9	9	9	10
Q8. To what extent do you agree that the EUCARIS helpdesk support has been helpful to assist you in deploying and performing operations with the system?	10	-	10	10	-	-	10	10	10	10	10	10	10	10	10

Source: Answers received to the satisfaction survey – Responses from 15 EU Member States (AT, BE, DE, EE, ES, FR, HR, HU, LT, LV, NL, PL, RO, SE, SK), 11.12.2015.

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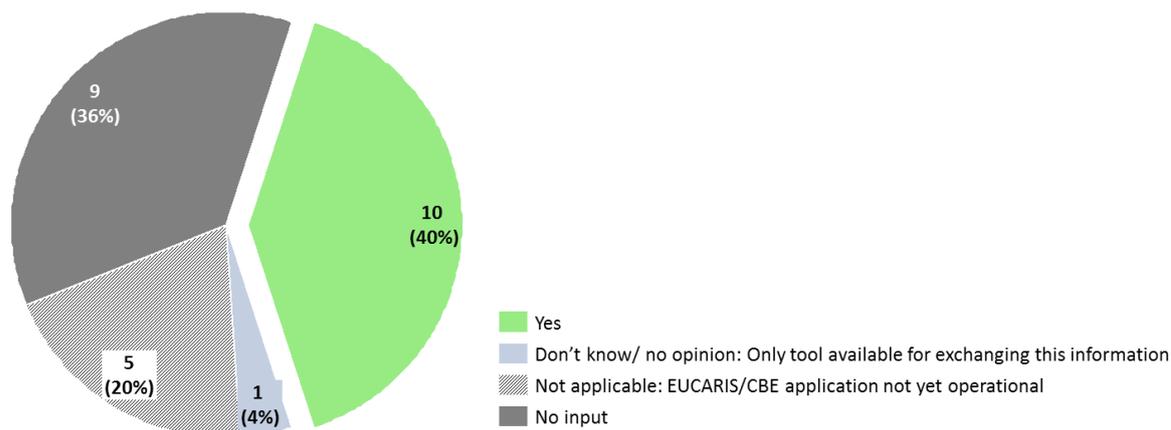
* The scale should be understood as following: 0 corresponds to "very dissatisfied/ completely disagree/ far from meeting expectation/ very far from an ideal" and 10 to "very satisfied/ fully agree/exceeds expectations/ very close to an ideal").

As displayed above, **respondents tend to be 'very satisfied' with the EUCARIS/CBE application (Q2)**. In total, the most frequent responses are '10' and '9' with 46 occurrences each, i.e. 75% of the answers given by the respondents indicate a very high level of satisfaction, and the median reaches 9.

The overall assessed quality of EUCARIS helpdesk support (Q7) is also to be highlighted since the score given by each country never goes below 9. Again, the most frequent responses are '10' and '9' with 5 and 7 occurrences respectively. Even more striking is the fact that all respondents fully agree (score of 10 allocated by the 13 countries having answered this question) that the helpdesk support has been helpful to assist Member States in deploying and performing their operations with the system.

The results of this survey are confirmed by the answers received to Q1.15, Q1.16 and Q1.17 from the "Questionnaire addressed to Member States' authorities". These questions indeed aimed to partly address users' satisfaction by asking respondents the extent to which the EUCARIS/CBE application facilitates cross-border exchange of VRD between Member States (Q1.15) and reporting to the European Commission (Q1.16) and whether they faced any problems with the use of the EUCARIS/CBE application such that it should be replaced by another system, such as RESPER (Q1.17).

Figure 3 Does EUCARIS facilitate cross-border exchange of VRD between Member States?



Source: Answers received to Q1.15 of 'Questionnaire addressed to Member States' authorities'- 25 respondents representing 22 Member States (AT; BE; CZ; DE; EE; EL; ES; FI; FR; HR; HU; IT; LT; LV; LU; PL; PT; RO; SE; SI; SK; UK), 11.12.2015

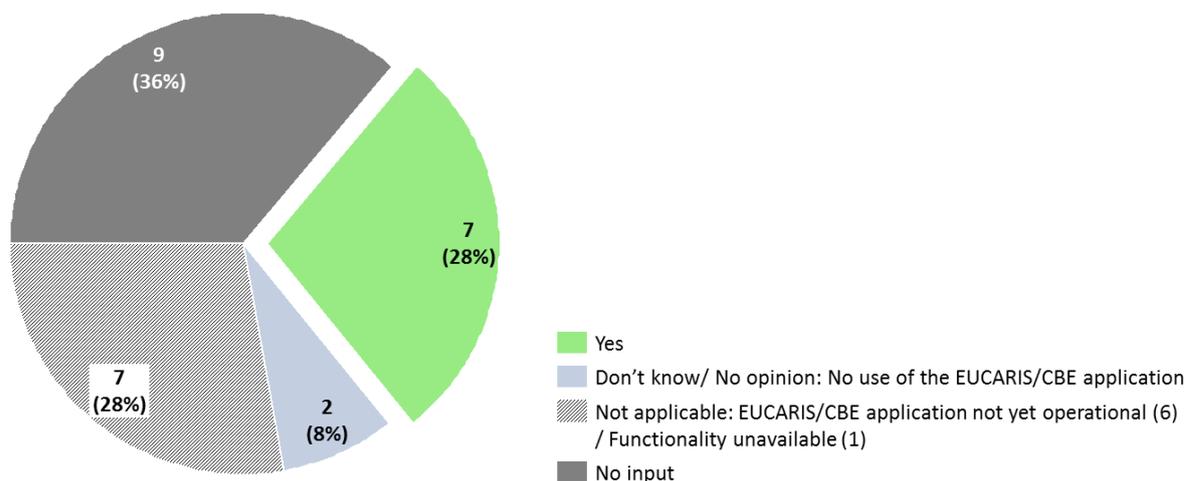
As displayed in Figure 3, respondents tend to agree that the EUCARIS/CBE application facilitates cross-border exchange of VRD between EU Member States. The two main reasons for that, as specifically mentioned by six respondents (6)¹⁸⁶, are the significant time-savings allowed by the application and its ability to respond to users' needs.

- The data exchange mechanism provided by EUCARIS is indeed described as functional and helpful to obtain information from other EU Member States in a fast and automatic way by five respondents (5).

¹⁸⁶ The other four 'satisfied' respondents (4) did not further comment on the reasons for their satisfaction.

- Since EUCARIS not only allows the exchange of VRD but also other types of data (e.g. ERRU, RESPER), one respondent (1) added that it then becomes easier for the EU Member States having implemented several EUCARIS applications to operate existing functionalities and define specifications to expand the system and cover new areas of data exchange.

Figure 4 Does EUCARIS facilitate the reporting by Member States to the EC?



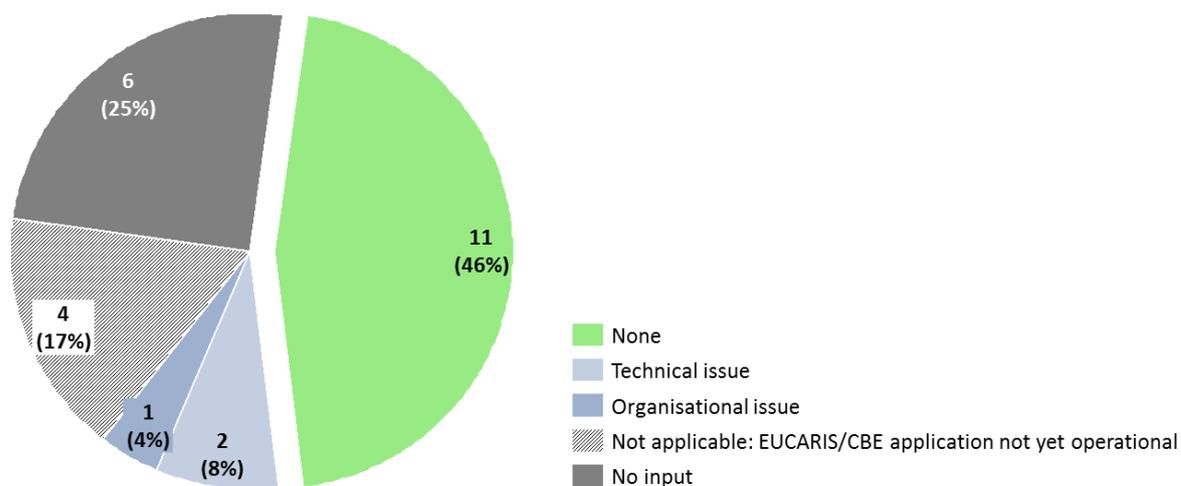
Source: Answers received to Q1.16 of 'Questionnaire addressed to Member States' authorities'.

Notes: 25 respondents representing 22 Member States (AT; BE; CZ; DE; EE; EL; ES; FI; FR; HR; HU; IT; LT; LV; LU; PL; PT; RO; SE; SI; SK; UK), 11.12.2015

As displayed in Figure 4, respondents tend to agree that the EUCARIS/CBE application facilitates reporting to the European Commission. Four respondents (4) indeed highlighted that, thanks to its reporting functionality, EUCARIS allows Member States to automatically log all outgoing and incoming requests and responses in their database and extract reliable statistics accordingly. Access to these statistics facilitates Member States' compliance with their obligations, as laid out under Article 6 of the CBE Directive. It should also be noted that one country (1) was not aware that this functionality was in place.

On the other hand, while the EUCARIS/CBE application is operational in HU and AT, these two countries use their own system for data reporting.

Figure 5 What are the problems with the functioning of EUCARIS?



Source: Answers received to Q1.17a of 'Questionnaire addressed to Member States' authorities' – 23 respondents representing 23 Member States (AT; BE; CZ; DE; EE; EL; ES; FI; FR; HR; HU; IT; LT; LU; LV; NL; PL; PT; RO; SE; SI; SK; UK), 20.11.2015

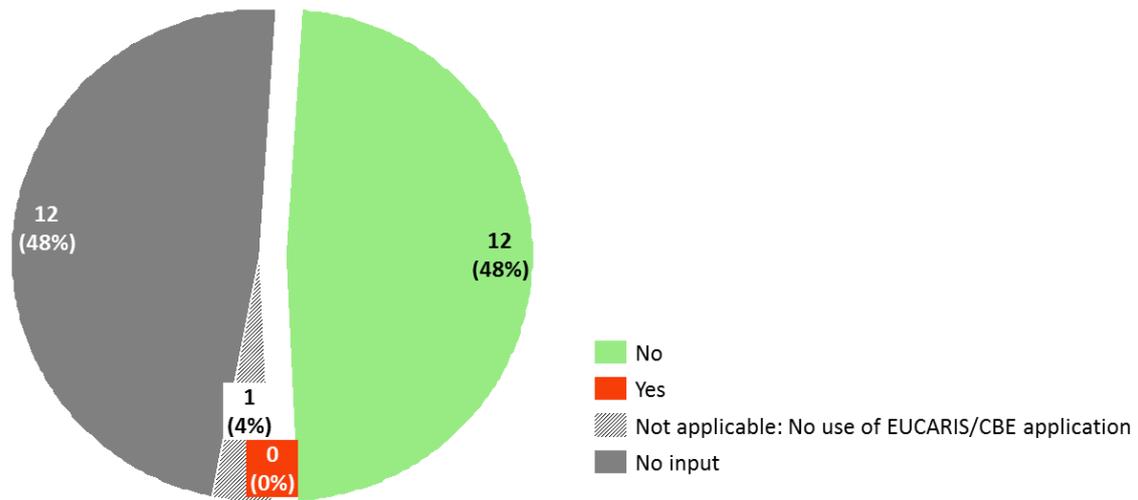
As displayed in Figure 5, the great majority of the respondents are satisfied with the EUCARIS/CBE application since they have not identified any problem with its functioning. In fact, the three issues highlighted by the other respondents seem to be either related to their specific needs, since they have each only been mentioned once, or solved already:

- The first technical issue, as identified by one country, is that when a vehicle is registered in a country different from its owner's country, then the application assumes that the address of the vehicle owner is where its vehicle was registered.
- The second technical issue, which was highlighted by another country, was related to the configuration of the application for multiple queries. The initial high volume of data exchange impacted the performance of the system; this issue has been addressed over time and the system is now functioning at an optimum performance.
- The issue mentioned by a third country is purely organisational: in some services, the responsibilities of making requests and responses are shared between several agencies and the EUCARIS/CBE application does not handle these hierarchical matters.

These findings were also reflected in the satisfaction survey, where three EU Member States) commented that the problems related to data exchange are usually not due to the EUCARIS/CBE application but e.g. to the Member States themselves, who do not use it correctly.

Despite these issues, the respondents are unanimous regarding the EUCARIS/CBE application: none of them would like it to be replaced by another system such as RESPER, as demonstrated by Figure 6.

Figure 6 Do you think that EUCARIS should be replaced by another system (e.g. RESPER)?



Source: Answers received to Q1.17b of 'Questionnaire addressed to Member States' authorities' – 23 respondents representing 23 Member States (AT; BE; CZ; DE; EE; EL; ES; FI; FR; HR; HU; IT; LT; LU; LV; NL; PL; PT; RO; SE; SI; SK; UK), 20.11.2015

As mentioned in the satisfaction survey, not only do EU Member States not want to replace the EUCARIS/CBE application by another system, but **they are also likely to recommend EUCARIS within their Member State to exchange VRD for other purposes**, such as tolls, parking fees, taxes, etc., provided that a legal base for the exchange is present. The median on this aspect indeed reached 9.

6.2.7 Efficiency of the EUCARIS/CBE application

Based on the characteristics of the EUCARIS/CBE application, as described in Section 6.2.1, the Evaluation performed a comparative analysis in order to assess (i) whether the EUCARIS/CBE application can be considered as efficient in implementing the CBE Directive; and (ii) whether another existing information system could be more efficient in implementing the CBE Directive, particularly in terms of IT costs.

Based on their business purpose and characteristics, two information systems were selected for the comparative analysis:

European Register of Road Transport Undertakings (ERRU):

ERRU is a linked-up database that allows exchange of information between Member States about: (i) transport managers who are declared unfit to manage the activities of a road transport undertaking; (ii) the most serious infringements committed by hauliers in any Member State, which may lead to the loss of good repute; (iii) other infringements committed by hauliers in any Member State.

The ERRU system provides a means to interconnect the national registries through the exchange of structured (XML) messages to a central hub.

RESeau PERmis de conduire (RESPER):

RESPER is a telematic network and acts as a hub for the exchange of information between national authorities responsible for issuing driving licences, in particular to guarantee recognition of documents and acquired rights originating in other Member States, combat document fraud and avoid the issuance of multiple licences (e.g. to prevent someone whose driving licence has been withdrawn to obtain a new one elsewhere in the European Union). Member States are able to check this by requesting in all other connected Member States whether they have issued a licence to the person in question.

Since EU Member States can use the EUCARIS technology for both application, as well as the EUCARIS/CBE application, the Contractor described the key characteristics of this technology in Table 18.

Table 18 Comparative analysis - Characteristics

Name of the IS	EUCARIS
IS Official name	European CAR and driving licence Information System
Responsible entity	DG HOME, DG MOVE, DG GROW, DG CNECT
Description of the system	EUCARIS is a unique system which provides opportunities to countries to share their car and driving licence registration information and/or other transport related data helping and/or to fight car theft and registration fraud. EUCARIS is not a database but an exchange mechanism that connects the Vehicle and Driving Licence Registration Authorities in Europe and structured around 4 administrative processes: <ol style="list-style-type: none"> 1. Registration of vehicles, 2. Issue of driving licences, 3. Collection of traffic fines and 4. Enforcement). Mainly, the system enables to: (1) search for a specific data (driving licences, vehicle inquiry); (2) address notifications (Notification of registration of the imported vehicle); and (3) transfer specific files (any kind of structured and unstructured data).
Main type(s) of transaction(s)/interaction(s) that users can perform	<ol style="list-style-type: none"> 1. Search for a specific data (driving licences, vehicle inquiry); 2. Address notifications (Notification of registration of the imported vehicle); 3. Transfer specific files (any kind of structured and unstructured data).
Current state of the IS	Operational
User population	Member States or third-countries national administrations
Level of importance of the IS¹⁸⁷	Essential
Links with other IS	sTESTA RESPER ERRU
Confidentiality level	Limited
Level of integrity and availability level of the IS and of the data processed	Moderate
Level of security requirements	Specific
Type of network used by the IS	Private (sTESTA)

¹⁸⁷ Critical: IS which cannot be interrupted at all, or which needs to be restored in 1-2 days; Essential: IS where a short interruption can be tolerated (up to a week); Necessary: IS could afford to interrupt for at least a week without serious effects, but which could be restored as soon as circumstances permit.

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Name of the IS	EUCARIS
Major business processes supported by the IS	<ol style="list-style-type: none"> 1. Vehicle Registration 2. Driving Licence issuance and registration 3. Enforcement of traffic offences 4. Police investigations 5. eCall rescue operations 6. Licensing of Transport Undertakings/ Managers 7. Issuing and enforcement of Tachograph Cards 8. Registration of CoCs
Major business functionalities supporting the above business processes	<ol style="list-style-type: none"> 1. Synchronous communication 2. MultiCountryInquiry 3. File Transfer 4. Language Independency 5. Help-files 6. Versioning 7. Authentication 8. Logging

Source: Database of Trans-European system, Kurt Salmon, 2015

Since the same technology is used by the EUCARIS/CBE, ERRU and RESPER¹⁸⁸ applications, one can expect that the costs for Member States to implement these applications are within the same range. These costs are further detailed in the Section 6.4. However, the costs to build these applications may differ from one to another.

In this regards, Table 19 aims to compare the different cost components of these applications TCO for RDW/NL (in the case of EUCARIS/CBE application) and the European Commission (in the case of the other applications). Again, these costs are not those incurred for Member States to connect to the application and maintain this connection.

The costs of EUCARIS information system is also included so as to give a perspective on its costs.

The Total Cost of Ownership (TCO) is a comprehensive assessment of information technology or other costs across enterprise boundaries over time. It can be drilled down into five main categories:

- **Infrastructure:** cost of the hardware and software required to develop, support, operate and maintain the information system;

¹⁸⁸ Member States were obliged to implement the Driving Licence data exchange (RESPER) by January 2013, having two options (i) Using the EUCARIS information system or (ii) using the data exchange system provided by the European Commission, so-called "Central Hub". Apart from AT, EL and FR, all countries chose to use the EUCARIS technology. The same applied to ERRU but 13 countries chose the "Central Hub" option.

- **Development:** cost for the development of the information system;
- **Maintenance:** cost to maintain the information system;
- **Support:** cost to support the information system (e.g. helpdesk, operations, etc.);
- **Training:** cost to ensure the training of the users, the support and operations staff, etc.

Table 19 Comparative analysis – TCO

Type of costs (in M€)	EUCARIS	EUCARIS/CBE	ERRU	RESPER
Infrastructure – 2013	0.021	0.003	0.037	0.06
Infrastructure – 2014	0.026	0.004	0.05	0.09
Infrastructure – 2015	0.027	0.004	0.05	0.09
Infrastructure – 2016	0.041	0.005	0.05	0.09
Infrastructure – Total	0.115	0.016	0.187	0.33
Development – 2013	0.181	0.145	0.111	0.17
Development – 2014	0.062	0.029	0.13	0.09
Development – 2015	0.221	0.025	0.1	0.09
Development – 2016	0.261	0.012	0.05	0.09
Development – Total	0.725	0.211	0.391	0.44
Maintenance – 2013	0.203	0	0.185	0.19
Maintenance – 2014	0.216	0	0.175	0.21
Maintenance – 2015	0.278	0	0.175	0.21
Maintenance – 2016	0.333	0.014	0.15	0.21
Maintenance – Total	1.03	0.014	0.685	0.82
Support – 2013	0.176	0.065	0.035	0.06
Support – 2014	0.146	0.036	0.05	0.06
Support – 2015	0.18	0.016	0.05	0.06
Support – 2016	0.46	0.008	0.05	0.06
Support – Total	0.962	0.125	0.185	0.24
Training – 2013	0	0	0	0
Training – 2014	0	0	0	0
Training – 2015	0	0	0	0
Training – 2016	0	0	0	0
Training – Total	0	0	0	0
TOTAL COST OF OWNERSHIP (TCO)	2.832	0.366	1.448	1.830

Source: Interview with RDW/NL on 15.09.2015; Database of Trans-European system, Kurt Salmon, 2015.

Note: While the costs for EU Member States (see Section 6.4) are estimated for the period 2013 – 2017; at the time of this report, no data was available for 2017 on the costs of EUCARIS/CBE applications for RDW/NL. The costs of all above systems are therefore calculated for the period 2013 – 2016.

Based on the results of the above comparative analysis, it appears that **the TCO of EUCARIS/CBE application for the period 2013 – 2016 is the lowest, in comparison with ERRU and RESPER.**

It should be noted that the support costs of RESPER and ERRU are lower than those of EUCARIS/CBE application overall, but, quite similar when comparing the year 2016. In fact, support costs were higher when EU Member States were installing the EUCARIS/CBE application (from 2013 to 2015) and will then reduce significantly in 2016, given that seven MSs only have not yet implemented the application. The support costs of the latter application are therefore expected to remain low and stable for the coming years.

6.2.8 Conclusions

To conclude, the Evaluation team considers that the EUCARIS/CBE application does contribute to the effective implementation of the CBE Directive, including equal treatment of resident and non-resident offenders. Its potential to ensure that non-

resident offenders are tracked for the offences they committed could however be further improved.

First, EUCARIS information system guarantees a secure and confidential exchange of specific vehicle registration data, by complying with the security provisions of Article 4 (4) – Indicator N°13 – and with the data protection provisions of Article 7 of the CBE Directive – Indicator N°14.

Secondly, based on the results of the satisfaction survey, **the users of EUCARIS/CBE application seem to be strongly satisfied with the application** (Indicator N°12). In fact, not only do they not want to replace the EUCARIS/CBE application by another system, but **they are also likely to recommend the application within their Member State to exchange VRD for other purposes**. The latter indeed allows them to benefit from time saved while answering to their needs. The reporting functionality of the application also facilitates Member States' compliance with their obligations, as laid out under Article 6 of the CBE Directive.

Thirdly, based on the results of the comparative analysis, **EUCARIS/CBE application presents the lowest Total Cost of Ownership (TCO)**¹⁸⁹, in comparison with two other systems with similar business purpose and characteristics (ERRU and RESPER) - Indicator N°25 and 26. While the TCO of the EUCARIS/CBE application was estimated to amount to EUR 0.366m between 2013 and 2016, it was estimated to reach EUR 1.448m and EUR 1.83m respectively for ERRU and RESPER over the same period.

Moreover, as demonstrated in Section 6.2.5, **the EUCARIS/CBE application allows tracking more than 50% of the automatically detected offences committed by non-resident offenders**, in the countries for which the Contractor gathered data. This can generate significant revenues for the countries using the application. An **increased use** of the EUCARIS/CBE application by EU Member States to conduct automated searches combined with the **increased quality** of the search results (lower failure rate) represent a great potential for increasing even more those revenues at the national level (Indicator N°28).

While some technical and organisational issues were highlighted by a minority of Member States, these are either solved already or considered as minor in comparison to the overall benefits of the application.

For these reasons, the Evaluation concludes that **EUCARIS/CBE application displays significant potential to ensure the equal treatment of resident and non-resident offenders**. This applies particularly for automatically detected offences, which, as highlighted by the Impact Assessment of the CBE Directive, are the most difficult to track when these are committed with a vehicle registered in another Member State than the Member State where the offence has been committed.

One should also highlight that before the CBE Directive, some Member States were already exchanging VRD, based on bilateral agreements (e.g. Germany and the Netherlands, Belgium and the Netherlands); however these were targeted to specific segments of non-resident offenders (i.e. these having a vehicle registered in a country bound by the agreement) and were therefore not treating EU residents in an equal manner. The CBE Directive allows treating all EU citizens equally.

¹⁸⁹ The TCO of an information system defines the total estimated cost to develop the system, to put it into production, to operate it, to support it, to maintain it, to phase it out at the end.

However, there are still too few Member States having implemented and using the EUCARIS/CBE application at the time of the report (Indicator N°15).

The CBE Directive had to be implemented by 25 EU Member States by 7 November 2013 while three EU Member States¹⁹⁰ have until 6 May 2017 to do so. In reality, as of 8 October 2015, **the EUCARIS/CBE application was operational in 18 EU Member States (72%), allowing other Member States' national contact points access to their data** relating to vehicles, owners and holders of the vehicle in question, with the power to conduct automated searches. On the contrary, seven EU Member States (7), i.e. CY, CZ, FI, IT, LU PT and SI (28%), were not compliant with the legal provisions from the CBE Directive, preventing the 18 other concerned EU Member States for which the EUCARIS/CBE application was operational from accessing their data related to vehicles, owners and holders of the vehicle in question, with the power to conduct automated searches and preventing themselves to access these 18 EU Member States' databases for data related to vehicles, owners or holders. Three of these countries, i.e. IT, LU and SI, were progressing towards the implementation of the application while no initiative has been taken in the four other countries, i.e. CY, CZ, FI and PT.

Moreover, **outgoing searches were not performed by all the 18 EU Member States for which the application was operational as of October 2015**. In fact, the EUCARIS/CBE application was not used by at least four EU Member States for outgoing searches and is still not used as of February 2016 by some Member States¹⁹¹. Even though performing automated searches is not made mandatory by the CBE Directive, it would directly contribute to its effective implementation by facilitating the exchange of specific Vehicle Registration Data between EU Member States 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.

Based on the data received from five EU Member States (5) using the EUCARIS/CBE application for conducting automated searches, it appears that **less than half of the total number of offences committed by non-resident offenders are followed by a search with the application, except in the NL where almost all offences were followed by a search in 2015**. This is assessed as low considering that the application has now been used for at least two years in those EU Member States (Indicator N° 10).

One should however add that **the CBE Directive still allows tracking more than 50% of the automatically detected offences committed by non-resident offenders in the EU**. One can assume that 100% of automatically detected offences followed by a search with EUCARIS is the target aimed to be reached by all EU countries over years.

¹⁹⁰ As explained, on EU Justice and Home Affairs (JHA) matters, DK, IE and UK indeed have the right to opt-out any measures, which they did for the CBE Directive. When the Directive 2015/413 facilitating cross-border exchange of information on road-safety-related traffic offences was adopted, the legal basis moved from JHA to transport. The opt-out system was therefore no longer valid. The three countries now have until 6 May 2017 to transpose the legislation at national level.

¹⁹¹ The Contractor did not receive any valid data from seven EU Member States for which the application is operational.

6.3 Impact of the CBE Directive

6.3.1 Introduction

This Section assesses the impacts of the Directive in order to provide an overview of its effectiveness in terms of reducing fatalities on EU roads.

The analysis of the CBE Directive's impact on fatalities was carried out considering different sets of data. Notably, the analysis focused on trends of fatalities, (i.e. persons killed immediately or dying within 30 days as a result of a road accident) and fatal accidents (i.e. accidents that cause someone to die) on EU roads in order to assess whether a decrease of fatalities and fatal accidents was registered in 2014 and 2015 compared to the previous years, including 2013, when the CBE Directive was not yet implemented by Member States.

It also took into account data on fatalities involving non-resident drivers (i.e. road fatalities occurred in connection with an accident in which at least one of the drivers involved was a non-resident of the Member State where the accident took place) and fatal accidents involving non-resident drivers (i.e. accidents that caused someone to die in which at least one non-resident driver was involved) at the Member States' level, in order to assess whether a decrease of such fatalities/fatal accidents was registered further to the implementation of the CBE Directive.

In addition, it looked at the variation in the share of all fatalities and fatal accidents, occurred in Member States, where non-residents were involved, in order to assess whether such share was affected (non-residents are less/or more involved in road casualties) further to the implementation of the CBE Directive.

Relevant information was gathered by analysing the data on fatalities and fatal accidents available in the CARE database¹⁹² and consulting the Interim Evaluation of the Policy orientations on road safety 2011-20 carried out by DG Move in 2015.

In addition, the Evaluation team looked at data and trends of enforcement especially with regard to: (i) the number of overall CBE offences detected on EU roads at Member States' level; (ii) the number of CBE offences committed by non-residents (i.e. committed with a vehicle registered in a Member State other than the one where the offence was detected); (iii) and the number of offences followed-up under the CBE Directive in 2015.

Such results were compared with the Evaluation team estimates concerning the number of possibly followed-up offences by means of bi-lateral/multi-lateral cooperation mechanisms before the implementation of the CBE Directive. The analysis also provides an estimate of the overall number of CBE offences that might be followed-up in the EU, once all Member States have implemented the CBE Directive.

The rationale beyond the choice of looking at enforcement, in order to estimate a possible fatalities' reduction, is that fatalities and accidents are affected by various factors including enforcement. Indeed, it is generally accepted that traffic law

¹⁹² http://ec.europa.eu/transport/road_safety/specialist/statistics/index_en.htm.

enforcement influences substantially¹⁹³ driving behaviour due to the deterrent effect of penalties¹⁹⁴.

Moreover, this Section assesses the possible impact of the CBE Directive on road users' awareness and notably its impact on EU citizens' awareness of rules in force across EU Member States with regard to the field covered by the CBE Directive.

The Evaluation team deems appropriate to point out that road users did not take part in the consultation. Therefore, the analysis was able to identify pointers demonstrating the CBE Directive's possible impact on road users' awareness but not the extent of such impacts.

6.3.1.1. Preliminary remarks on the assessment of the possible impact of the CBE Directive

In order to assess the possible impact of the CBE Directive, the data analysis of fatalities and of offences compared two categories of Member States: Member States that actively implemented the Directive in 2014 and/or in 2015 and Member States which did not. The year 2014 was selected for the assessment of the impacts on fatalities due to greater data availability on fatalities and fatalities involving non-residents. The year 2015 was chosen for the assessment of the impacts on compliance and enforcement because some countries provided data on offences also for 2015 and later data might be more significant for observing compliance trends¹⁹⁵.

On this regard, it is important to point out that the term active implementation is used in a "non-legal"¹⁹⁶ sense, i.e. by active implementation (hereinafter also 'implementation') we mean Member States that have carried out searches aimed at following-up offences committed by non-residents via EUCARIS.

The detailed analysis on the active implementation of the CBE Directive has been provided in Section 6.2 and to some extent in Section 6.1. However, for the sake of clarity of this Section, Table 20 provides an overview of such implementation for the years 2014 and 2015.

¹⁹³ This is confirmed by the findings of our stakeholder consultation. All the stakeholders consulted and who expressed an opinion stated that poor enforcement is one of the main contributing factors to unsafe driving behaviours: reply provided by the Institut Belge pour la Sécurité Routière, Cypriot Police; University of Athens; French Association de la Prévention Routière,; Hungarian Institute for Transport and Science,; ACI; FEVR (European Federation of Road Traffic Victims).

¹⁹⁴ SafetyNet (2009) Speed Enforcement Project co-financed by the European Commission, Directorate-General Transport and Energy. http://ec.europa.eu/transport/road_safety/specialist/knowledge/pdf/speed_enforcement.pdf.

¹⁹⁵ Because a greater number of MS was implementing the CBE in 2015 than in 2014.

¹⁹⁶ The Directive requires Member States to grant access to other MS to their VRD, but does not require Member States to follow-up offences committed by non-residents. Thus, from a legal standpoint it would not be correct to state that a Member State which was not carrying out searches in 2014 (or in 2015) was not implementing the CBE Directive.

Table 20 Overview of the implementation of the CBE Directive in the years 2014-2015

Country	2014	2015
Belgium	Yes	Yes
Bulgaria	Yes	Yes
Czech Republic	No	No
Denmark	No	No
Germany	Yes	Yes
Estonia	No	No
Ireland	No	No
Greece	No	Yes ¹⁹⁷
Spain	No	Yes
France	Yes	Yes
Croatia	No	Yes
Italy	No	Yes ¹⁹⁸
Cyprus	No	No
Latvia	No	Yes ¹⁹⁹
Lithuania	Yes	Yes
Luxembourg	No	No
Hungary	Yes	Yes

¹⁹⁷ To a limited extent. Based on the statistics from Croatia, there have been some searches made. While all those made by HR into GR (25) resulted in an error, it seems that one search out of the four made by GR into HR worked. Greek authorities did not provide relevant data.

¹⁹⁸ Started at the end of 2015.

¹⁹⁹ Started at the end of 2015.

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Country	2014	2015
Malta	No	No
Netherlands	No	Yes
Austria	Yes	Yes
Poland	Yes	Yes
Portugal	No	No
Romania	No	No
Slovenia	No	No
Slovakia	No	No
Finland	No	No
Sweden	No	No
UK	No	No

In addition, one should note that the fact that the Directive was actively implemented in 2014 by a Member State does not always mean that such Member State followed-up a substantially higher number of road traffic offences committed by non-residents compared to the previous years.

6.3.2 Observed trends in fatalities and fatal accidents on EU roads

In order to discuss the impact of the CBE Directive, it is important to point out that the analysis of the data on fatalities has been carried out taking into account that many factors affect fatalities' and fatal accidents' trends, notably: technical failures in vehicles, safety equipment, road infrastructure, emergency response in case of crash, economic development and its impact on the volume of traffic²⁰⁰, the weather and climate change²⁰¹, the increase of vulnerable users such as cyclists²⁰², enforcement practices as well as the use of automatic checking equipment and its deterrent effect and the use of communication tools^{203 204}.

As reported in the European Commission Interim evaluation of the Policy orientations on road safety 2011-2020²⁰⁵ technical defects of a vehicle were and most likely still are a contributing factor in at least 6% of all accidents²⁰⁶. Stakeholders report that the recent cyclists' increase is bringing about safety challenges in some Member States²⁰⁷.

It is also important to point out that road fatalities decreased in the last decade due to the combination of EU, Member States and local actions^{208 209} and that reduced fatalities in 2014 and in 2015 are likely to be also the results of previous initiatives undertaken by all the stakeholders involved in the previous decade²¹⁰ and cannot be attributed to the sole implementation of the CBE Directive.

²⁰⁰ The number of vehicles (and of people travelling) tends to increase when the economy is doing well.

²⁰¹ See the Interim evaluation of the Policy orientations on road safety 2011-2020, Written by European Commission, DG MOVE, Unit C4: Road safety, May – 2015.

²⁰² Interim evaluation of the Policy orientations on road safety 2011-2020.

²⁰³ This was pointed out by stakeholders at the Stakeholder Meeting organized by the Evaluation team, which took place in Brussels on 5 October 2005. There are no specific data that clearly link the increase of the use of communication tools to recent trends of fatalities and accidents on EU roads.

²⁰⁴ Another factor is demographic change but since the Evaluation team compared data of a limited period of time, it did not consider this factor as relevant. Indeed, the impact of demographic change is observed in the long term.

²⁰⁵ Interim evaluation of the Policy orientations on road safety 2011-2020. Written by European Commission, DG MOVE, Unit C4: Road safety, May – 2015.

²⁰⁶ Commission Staff Working Document: Impact assessment on the Roadworthiness package, SWD(2012)206 final 2, Brussels, 13 July 2012, p.10. See the Interim evaluation of the Policy orientations on road safety 2011-2020.

²⁰⁷ MEETING REPORT, Workshop in preparation of the interim evaluation of the Policy orientations on road safety 2011-2020, Brussels, 17 November 2014 (Annex to the Interim evaluation of the Policy orientations on road safety 2011-2020).

²⁰⁸ During the period 2001-2010 road fatalities decreased by 43% in a period were 12 new Member States acceded to the EU.

²⁰⁹ Pursuant to the findings of the Interim Evaluation of the Policy orientations on road safety 2011-2020 the average of the three highest fatality rates was 3.7 times higher than the average of the three lowest rates. In 2014 the average of the highest three fatalities rates was down to 3.4 times the average of the three lowest.

²¹⁰ Differences among Member States are also decreasing over time and Member States which acceded the EU in 2004 and in 2007 saw the number of deaths on their roads decreasing in the years following the accession at a faster pace. Interim Evaluation of the Policy orientations on road safety 2011-2020.

Against this background, our analysis was aimed at identifying pointers demonstrating that the CBE Directive might have already had an impact on fatalities and fatal accidents. However, the analysis could not quantify the extent of such an impact.

That said, an analysis of the data on the number of road fatalities on EU roads shows that the latter has remained stable in the period 2013-2014 (see Annex 5).

In addition, an analysis and comparison of trends of fatalities and fatal accidents in Member States shows heterogeneous trends for the years 2013-2014.

Notably, a comparison of trends of fatalities and fatal accidents in Member States that actively²¹¹ implemented the CBE Directive in 2014 and of those which did not shows that fatalities and fatal accidents have increased in 2014 compared to 2013 in some Member States that implemented the CBE Directive in 2014 such as France, Germany, Lithuania and Hungary and that fatalities and fatal accidents decreased in some of the Member States which did not, such as Luxemburg, Denmark and Greece (see Tables in Annex 5)²¹².

Thus, no correlation was detected between the decrease in the number of overall fatalities and fatal accidents in a Member State in 2014 compared to 2013 and the fact that the Member State implemented the CBE Directive in 2014. To find such a correlation is even more challenging because many other factors may have likely influenced fatalities trends at the Member States and EU level in 2014 and because the CBE Directive can have an impact on a relatively small share of road fatalities and fatal accidents. Indeed, fatalities involving non-residents represent a share that ranges from 3% to 63% of all road fatalities at the Member States' level. In some Member States is consistently below 10% (see Table 22 below).

For example, based on available information gathered by the ETSC, in France, factors, such as speed increase on certain roads and the habit of not-wearing seat belts, seem to have contributed to the fatalities' increase²¹³.

In Germany, the increase of fatalities in 2014 compared to 2013 seems to be due to the good weather and the consequent increase of the number of vulnerable road users such as cyclists on the roads²¹⁴.

In the UK, the increase of fatalities was related to economic growth²¹⁵, which is believed to have led to a 2.4% increase in road traffic and to a consequent possible increase of the number of accidents on the roads²¹⁶, and to various policy choices, such as the decision to raise the speed limit²¹⁷ and to reduce the number of operational speed cameras.

²¹¹ See Section 6.3.1.1 above.

²¹² Data on fatalities by population show also heterogeneous trends with some Member States registering an increase of such rate and others registering a decrease. See Annex 5.

²¹³ ETSC, Ranking EU Progress On Road Safety. 9th Road Safety Performance Index Report, June 2015.

²¹⁴ See ETSC, Ranking EU Progress on Road Safety.

²¹⁵ Based on the information provided by stakeholders.

²¹⁶ An increase of the number of road users is likely to lead to an increase of the number of accidents. An increase of the number of accidents is likely to lead to an increase of the number of road fatalities.

²¹⁷ ETSC, Ranking EU Progress On Road Safety.

In Croatia, positive results are to be attributed to the following factors: road safety awareness, targeted checks, regulatory changes, such as stricter sanctions for drunk drivers and a zero alcohol tolerance policy for young drivers, and improved infrastructure²¹⁸. In Slovenia, the fatalities' reduction is linked to a combination of factors such as: better enforcement measures; specific awareness campaigns focused on vulnerable road users such as children, motorcyclists, pedestrians and cyclists; improvement of the first aid system and health care and improvement of roads' infrastructure²¹⁹.

²¹⁸ ETSC, Ranking EU Progress On Road Safety.

²¹⁹ ETSC, Ranking EU Progress On Road Safety.

6.3.3 Trends in fatalities and fatal accidents involving non-resident drivers further to the implementation of the CBE Directive

The trends' analysis of fatalities involving non-resident drivers shows that such fatalities decreased in the period 2013-2014 in 5 Member States that were implementing the CBE Directive in 2014 and increased in only one State that was implementing (to a very limited extent) the CBE Directive. Notably, in Germany they increased by 1% as well as the overall fatalities (See Table 21 and Table 11.1 in Annex 5).

It is important to point out that a decrease in the number of fatalities involving non-residents was registered in 5 out of the 6 the Member States which provided data and were implementing the Directive in 2014, (FR, LT, HU, AT and PL) and in 5 out of the 8 Member States that were implementing the Directive in the same year (i.e. FR, LT, HU, AT and PL plus DE, BE and BG). Such decrease varies from 9 to 25%.

Unfortunately Belgium (as well as Bulgaria), a Member State that was implementing the Directive in 2014, did not provide data on fatalities involving non-resident drivers. As a consequence the Evaluation team could not include data for Belgium in the comparative analysis carried out above. However, it is worth pointing out that based on information provided by Belgian authorities accidents with injured people or fatalities involving non-residents drivers, i.e. accidents where one of the drivers was a non-resident and that caused either injuries or deaths, decreased in 2014 compared to 2013 (see Annex 5).

This indicates that 6 out of the 8 Member States that were implementing the CBE Directive in 2014 registered either a decrease of fatalities involving non-residents or of accidents with injured people or fatalities involving non-residents, i.e. a decrease of the involvement of non-resident drivers in road accidents causing either road deaths or road injuries.

Furthermore, the Evaluation team looked also at the situation in other Member States which were not implementing the Directive in 2014 and found heterogeneous trends. In some Member States fatalities involving non-residents increased (Sweden, Cyprus, Slovakia) and in some others Member States they decreased (Luxemburg and Croatia).

The Team also looked at data on fatal accidents involving non-residents. The table providing the overview of the trends of fatal accidents at Member States' level is attached to this Report for the sake of its readability. The analysis of data on fatal accidents showed that the MS majority that provided data and were implementing the Directive in 2014 registered a decrease in the number of fatal accidents involving non-residents. This trend concerns France, Lithuania, Hungary, Austria and Poland (see Annex 5).

Only Germany registered a small (2%) increase in the number of fatal accidents involving non-residents.

As for Member States not implementing the Directive, 6 of them present a decrease in the number of fatal accidents involving non-residents while an increase was detected only in two Member States (SE and CY).

Table 21, below illustrates the data on the number of fatalities involving non-resident drivers on EU roads in the years 2011, 2012, 2013 and 2014 in Member States²²⁰. The figures on fatalities in Member States that carried out searches in 2014 (i.e. that have

²²⁰ The data were provided by the Commission.

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been actively implementing the CBE Directive) are highlighted in blue. Member States which did not carry out searches are not highlighted.

Table 21 Fatalities involving non-resident drivers in Member States

Country	Year 2011	Year 2012	Year 2013	Year 2014	Percentage change 2011-2012	Percentage change 2012-2013	Percentage change 2013-2014
Czech Republic non-residents	79	77	76	63	-2%	-1%	-17%
Denmark non-residents	32	20	24	18	-37.5%	+20%	-25%
Germany non-residents	612	583	563	567	-5%	-3%	+1%
Greece non-residents	210	152	107	N/A	-27%	-29%	N/A
Spain non-resident	207	221	191	N/A	+7%	-14%	N/A
France non-residents	174	136	128	117	-22%	-6%	-9%
Croatia non-residents	31	48	35	34	+54%	-27%	-3%
Cyprus non-	21	5	10	14	-76%	+100%	+40%

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Country	Year 2011	Year 2012	Year 2013	Year 2014	Percentage change 2011-2012	Percentage change 2012-2013	Percentage change 2013-2014
residents							
Latvia non-residents	9	18	13	1	+100%	-28%	-92%
Lithuania non-residents	N/A	N/A	24	18	N/A	N/A	-25%
Luxembourg non-residents	19	25	32	22	+32%	+28%	-31%
Hungary non-residents	69	64	51	43	-7%	-20%	-16%
Austria non-residents	118	145	132	120	+23%	-9%	-9%
Poland non-residents	188	181	121	113	-4%	-33%	-7%
Portugal non-residents	29	27	19	20	-7%	-30%	+5%
Romania non-	99	92	95	91	-7%	+3%	-4%

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Country	Year 2011	Year 2012	Year 2013	Year 2014	Percentage change 2011-2012	Percentage change 2012-2013	Percentage change 2013-2014
residents							
Slovenia non-residents	26	18	21	N/A	-31%	+17%	N/A
Slovakia non-resident²²¹	7	9	7	10	+29%	-22%	+42%
Sweden non-residents	24	15	16	19	-37%	+7%	+19%

Source: Data provided by the Commission

²²¹ Data provided by Slovak authorities. Data refers to fatalities caused by non-residents.

6.3.4 Share of fatalities and fatal accidents involving non-residents out of the total number of fatalities/fatal accidents.

The analysis considered also the variation in the share of fatalities and fatal accidents involving non-residents out of all fatalities and fatal accidents in order to identify relevant trends concerning the weight of fatalities and fatal accidents involving non-residents in the overall road death toll.

“Indeed, the Team noted that the percentage decrease of the number of fatalities involving non-residents in some Member States in the time-slot 2013-2014 was higher than the percentage decrease of the number of overall fatalities. This is the case in: Austria and Poland, two Member States that were implementing the CBE Directive in 2014. Furthermore, in some Member States that were implementing the Directive in 2014 the decrease of fatalities involving non-residents was concurrent to an increase of all fatalities. This is the case for Lithuania, Hungary and France”.

Notably, in 4 out of the 6 Member States, that provided data and were implementing the Directive in 2014, the share of fatalities involving non-residents out of all fatalities decreased in 2014 compared to 2013. The average decrease accounted for more than 1 percentage point. In the two remaining Member States such share remained stable (Germany and Poland). In no Member State (that was implementing the CBE in 2014) such share increased. In addition, it is important to note that, according to the data on France, the share of fatalities involving non-residents within all fatalities decreased only in the time-slot 2013-2014, while it was stable in the time-slots 2011-2012 and 2012-2013.

Similar trends were observed, in the Member States that were implementing the CBE Directive in 2014, in connection with the variation of the share of fatal accidents involving non-residents out of all fatal accidents in the time-slot 2013-2014 (see Annex 5).

As to Member States which were not implementing the CBE Directive in 2014, the Team found heterogeneous trends, i.e. in some Member States the share of fatalities involving non-residents out of all fatalities increased (CY, HR, SK, SE) while in others decreased (CZ, DK, LU) (see Table 22 below).

Trends in the share of all fatal accidents represented by fatal accidents involving non-residents are also heterogeneous in the Member States not-having implemented the Directive in 2014, with some Member States registering a substantial increase of such share in 2013-2014 (i.e. Sweden, Croatia and Cyprus) and some registering a decrease (i.e. CZ, DK, LV) (see Annex 5).

The Table 22 below provides an overview of the variation in the share of fatalities involving non-residents out of the overall number of fatalities in the years 2011-2014. The sixth column specifies the percentage point variation in the share of all fatalities represented by fatalities involving non-residents in the time slot 2013-2014.

Table 22 Share of fatalities involving non-resident drivers

Country	Year 2011	Year 2012	Year 2013	Year 2014	Percentage point variation 2013-2014
Czech Republic non-residents %	10%	10%	12%	9%	-3
Denmark non-residents %	15%	12%	13%	10%	-3
Germany non-residents %	15%	16%	17%	17%	0
Greece non-residents %	18%	15%	12%	N/A	N/A
Spain non-resident %	10%	12%	11%	N/A	N/A
France non-residents%	4%	4%	4%	3%	- 1
Croatia non-residents %	7%	12%	10%	11%	+1
Cyprus non-residents %	30%	10%	23%	31%	+8
Latvia non-residents %	5%	10%	7%	0%	-7
Lithuania non-residents %	N/A	N/A	9%	7%	- 2
Luxembourg non-residents %	58%	74%	71%	63%	- 8
Hungary non-residents	11%	11%	9%	7%	- 2
Austria non-residents %	23%	27%	29%	28%	-1
Poland non-residents %	4%	5%	4%	4%	0
Portugal non-residents %	3%	4%	3%	3%	0
Romania non-residents %	5%	5%	5%	5%	0
Slovenia non-residents %	18%	14%	17%	N/A	N/A

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Country	Year 2011	Year 2012	Year 2013	Year 2014	Percentage point variation 2013-2014
Slovakia non-resident %²²²	2%	3%	2.7%	3.4%	+0.7
Sweden non-residents %	8%	5%	6%	7%	+1

Source: Data provided by the Commission

²²² Data provided by Slovak authorities. Data refers to fatalities caused by non-residents.

6.3.5 Conclusions on registered trends on fatalities and fatal accidents

Based on the analysis of the above mentioned data, the Team concluded that there are indications that Member States which implemented the Directive in 2014 registered a decrease of fatalities involving non-residents and of fatal accidents involving non-residents that could be due to the implementation of the CBE Directive.

While it is impossible to provide irrefutable evidence of the above statement, it is posited that the homogeneous trends on fatalities involving non-residents and the homogeneous variation in the share of fatalities involving non-residents²²³ in Member States that implemented the Directive in 2014 could testify of non-residents road users' safer behaviour. It is also posited that such safer behaviour could have played a role in reducing the road death toll in 2014 compared to 2013 in such Member States and that this safer behaviour was possibly affected by an increased awareness of road users of the feasibility of being sanctioned for offences committed in a MS where they do not reside.

Moreover, it is also important to point out that the percentage decrease in the number of fatalities and fatal accidents involving non-residents in 2013-2014 does not appear to be more significant than the one between 2012 and 2013 and between 2011 and 2012 in the Member States that implemented the CBE Directive. Thus, this could also be interpreted as an indication that other factors, aside from the implementation of the CBE Directive, are responsible for such a decrease. Similar conclusions might be drawn looking at the variation of the share of fatalities involving non-residents of all fatalities during the years 2011-2012, 2012-2013 and 2013-2014: indeed no significant variations were registered in trends of Member States that implemented the CBE Directive in 2014 other than France.

In conclusion, taking into consideration that fatalities and fatal accidents can be influenced by concurrent factors, and that the observed decreases of fatalities and fatal accidents involving non-residents (as well as of their share out of all fatalities/fatal accidents) are not higher in the 2014-2013 time slot compared to the decreases occurred in previous years, the Team concluded as well that it is impossible to quantify the extent to which the decrease of fatalities and fatal accidents involving non-residents occurred in 2014 (compared to 2013) is directly attributable to the CBE Directive.

6.3.6 Impact of the CBE Directive on compliance with road safety rules: trends of offences covered by the CBE Directive

The Evaluation team analysed the data on offences for two purposes: in order to understand the impact of the CBE Directive on compliance; and to assess the weight/share of offences committed by non-resident offenders vs. resident offenders and then verify that the offences committed by non-resident offenders are properly tracked by EU MS, using the EUCARIS/CBE application.

In this Section, we will provide a trends' overview for offences that are covered by the CBE Directive (such as speeding, failing to stop at a red traffic light, use of a forbidden lane, failure to wear a safety helmet and a seat belt and illegally using a mobile telephone while driving) in order to assess the possible impact of the CBE Directive on compliance, i.e. to understand whether non-residents are less/more likely to commit CBE offences further to the implementation of the CBE Directive.

²²³ As well as the trends concerning fatal accidents in the same time slot.

Importantly, this Section gives an account of the changes in the share of offences committed by non-resident drivers out of the overall number of offences (Indicator N° 1). This figure is important in order to interpret correctly the trends of the number of offences committed by non-resident drivers and to better assess the weight that improvements of enforcement aspects related to the implementation of the CBE might have had on the trends concerning CBE offences in the Member States which provided relevant data and have been implementing the Directive since 2014, i.e. FR, BE, HU, and PL²²⁴.

At this stage, it is also useful to specify that the analysis of data on drink-driving offences was not carried out in order to assess the impact of the CBE Directive on compliance and enforcement. Drink-driving is estimated to be a contributing factor in approximately 25% of all fatal crashes²²⁵ and is covered by the CBE Directive. However, the CBE Directive does not contribute to improve the enforcement of sanctions for such offence, as this offence cannot be detected without stopping a vehicle²²⁶. Thus, the Evaluation team maintains that the attribution of an impact to the Directive on the drinking behaviour of drivers would be not correct from a methodological standpoint. The same applies when it comes to assessing the Directive's impact on drug-driving offences.

That said, the Evaluation team noticed a significant increase in the 2013-2014 time-slot in the number of speeding offences detected and involving national registered vehicles and foreign registered vehicles in some Member States, such as Belgium and France²²⁷.

Heterogeneous trends were observed also for the offences consisting in the refrain from stopping at a red light with increases for both residents and non-residents in Belgium, Estonia, Latvia and Hungary and an increase for the sole non-residents in France.

A similar situation is observed for the offence: use of a forbidden lane.

Significant decreases in the number of CBE offences were not registered in the time slot 2014-2015.

Thus, the analysis of relevant data does not allow for the conclusion that the implementation of the CBE Directive has had an impact on road users' behaviour and on their compliance with road traffic rules. Indeed the number of CBE offences detected, and committed by both residents and non-residents in the time slot 2013-

²²⁴ Indeed, increases in the absolute number of offences committed by non-residents might be due to an increase in traffic and/or an increased number of checks and/or the improved efficiency of checks. Thus, increases of absolute figures should not be interpreted as evidence of the CBE Directive's inability to persuade non-resident drivers that Member States are now enabled to pursue them if they commit an offence, regardless of where they reside in the EU.

²²⁵ See the Interim evaluation of the Policy orientations on road safety 2011-2020.

²²⁶ Stopping a vehicle implies also identifying the driver.

²²⁷ The Contractor would like to point out that there has been an increase in the number of offences occurring in some Member States such as France (where an increase of around 10% of speeding offences was registered in 2014 compared to 2013). However, this should not be read as a decrease in the level of road safety, because in the same period there has been an increase in the number of automatic checking equipment installed in France (based on the available information in France, the number of automatic checking equipment in use for speed control increased by 2% in 2014 compared to 2013 ONISR - "Les infractions routières - France 2014", pag. 1, available at http://www.securite_routiere.gouv.fr/content/download/34754/333224/version/1/file/15+07+30+Infractions+routi%C3%A8res+Bilan+ONISR+2014.pdf). This data is cumulative of both the fixed and mobile radars used by the French authorities.

2014 decreased neither in the Member States that implemented the Directive nor in those which did not.

The Evaluation team also looked at the variation of the share of offences represented by offences involving foreign registered vehicles of all offences. Such variation is illustrated in the table below.

An analysis of the variation of the share of offences represented by offences involving foreign registered vehicles of all offences shows that significant improvements for speeding offences were registered in France and Poland in the year 2015 compared to 2014. Indeed the share of detected offences committed by non-residents decreased by 2.3 percentage points in France and by 1.2 percentage point in Poland in the time slot 2014-2015. Opposite trends are observed in Belgium and Hungary and the Netherlands with an increase of the above share. The possible factors that might have triggered such increase could not be identified by the consulted stakeholders. However, it should be pointed out that, as explained in Section 6.3.1.1, the scope of the CBE Directive's implementation in the Netherlands, Belgium and Hungary is limited due to practical reasons and this might have narrowed its impact on the behaviour of road users.

Concerning other offences, in France, a decrease in the share of offences involving non-residents was registered also for the refrain from stopping at a red-light and the use of a forbidden lane in 2015 compared to 2014.

A general increase in such share is instead registered for illegally using a mobile telephone while driving in Member States that implemented the CBE Directive in 2014 and those which did not. However, this offence is generally not detected automatically in most EU MS. Thus, according to the Evaluation team, the data on the number of offences for illegally using a mobile telephone while driving might not be strictly relevant for the assessment of the CBE Directive's impact on compliance and anyway, such data are less important than those on speeding offences.

Similar considerations apply to trends on offences such as: not wearing a seat belt and not wearing a safety helmet.

In conclusion, it could be argued that there are some evidences that suggest an impact of the implementation of the CBE Directive on the behaviour of road users at least in 2 Member States which are actively implementing it such as Poland and France (Indicator N° 1).

It is impossible to estimate to what extent the decrease of the share of some of the CBE offences is related to the implementation of the CBE Directive, however according to the estimates provided by the French Interior Ministry²²⁸ the implementation of Directive 2011/82 could have contributed to a reduction from 22% in 2012 to 21% in 2014 of the percentage of foreign offenders, i.e. to a reduction of the number of road traffic offences committed by non-residents amounting to 70,000²²⁹ (Indicator N° 1).

The Table 23 below provides an overview of the variation in the share of offences committed on board of foreign registered vehicles for the years 2013-2014 and 2014-2015 in the Member States which provided data.

²²⁸ Information provided by French Interior Ministry at the Meeting of the Expert Group established to support the enforcement of road safety related traffic offences and Workshop on facilitating cross-border enforcement of sanctions for road safety related traffic offences held on 11 December 2015 in Paris.

²²⁹ Evaluation team's estimates.

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Table 23 Variations of the share of offences committed by non-resident drivers out of all offences (percentage points)

	BE	EE	LV	HU	SK	FR	Poland	NL
Speeding								
Δ2013-2014	+2.9					+6.5		
Δ2014-2015		+1	+ 1.2+	+21	-0.6	-2.3	-1.2	+2
Not wearing a seat belt								
Δ2013-2014	-0.4					+0.6		
Δ2014-2015		+1.4	+0.5	-1.8	- 0.2	+0.2	No change	+0.4
Failing to stop at a red light								
Δ2013-2014	+1.2	+0.2	-1.1			+1.2		-0.7
Δ2014-2015			No change	+1.6		-1.2	+ 0.1	-1.2
Failing to wear a safety helmet								
Δ2013-2014	-0.4			-0.3		+0.01		+0.2
Δ2014-2015		No change	+1.4	-0.2		+0.1%	No change	-0.4
Use of a forbidden lane								
Δ2013-2014	-0.2	No change	- 0.6	+1.1		+1.2		+1.4
Δ2014-2015		No change	+2.8	-0.8		-2.4	N/A	+1.2
Illegally using a mobile telephone while driving								
Δ2013-2014	+0.4			-0.4		-0.4		No change
Δ2014-2015		+0.3	+1.2	No change		+0.2	No change	+0.1

6.3.7 Impact of the CBE Directive on enforcement

As anticipated the Team looked at data on enforcement in order to understand the possible direct impact of the CBE Directive on an issue pertinent to road safety, and thus, the possible indirect impact of the CBE Directive on fatalities on EU roads.

The rationale behind this choice is that improved enforcement, in the past, has led to a decrease of fatalities and accidents²³⁰ (see Annex 7, Graph illustrating impact of enforcement on fatalities). This has occurred, for example, further to the introduction of automatic checking equipment in some Member States such as France²³¹. Moreover, various studies demonstrated that the introduction of automatic checking equipment to detect speed offences has reduced the road death toll on the roads where such equipment was installed²³².

Furthermore, it was estimated that excess speed is the primary contributing factor in one third of road fatalities²³³. The estimates also maintain that the misuse of seat belts contributes conspicuously to the number of fatalities to the extent that around 900 people per year could have survived road traffic crashes if seat belts had been used properly²³⁴.

Against this background, to the extent that the CBE Directive improves the enforcement of sanctions for such offences, and indirectly fosters compliance with speed limits and the obligation to wear seat belts, it can be argued that the CBE Directive has contributed to a decrease of fatalities and fatal accidents involving non-resident offenders²³⁵. The same reasoning applies to the enforcement of the other CBE offences such as the use of a forbidden lane, the illegal use of a communication tool, the refrain from stopping at a red-light and the deflection from wearing a safety helmet, although the impact of such offences on fatalities and accidents is less relevant and has not been quantified.

²³⁰ ETSC, Ranking EU Progress On Road Safety 9th Road Safety Performance Index Report, June 2015,

²³¹ In July 2003, France introduced the first permanent automated speed cameras. This and other important reforms, such as the installation of a Safety National Council and the implementation of a strict system for road traffic offences, made it possible to reduce fatalities by 51% over a 10 year period. Notably, according to the data provided by French authorities, automatic enforcement devices saved 30,000 lives, i.e. ¾ of the lives saved between 2002 and 2013.

²³² Speed cameras for the prevention of road traffic injuries and deaths (Review), Wilson C, Willis C, Hendrikz JK, Le Brocque R, Bellamy N, 2012, John Wiley & Sons. To evaluate the effectiveness of speed cameras, the study examined a range of studies comparing what was happening in road areas before the introduction of speed cameras and after their introduction, and also comparing what was happening in comparable road areas where no speed cameras have been introduced. In the twenty-eight studies assessed, it has been found that a lower number of crashes in the speed camera areas occurred after the implementation of the program. The studies show also a decrease in injury crashes and crashes resulting in fatalities. In some cases, such reductions amount to 20% on a yearly basis. In other cases, a decrease of 20% was registered over a longer period of time.

²³³ OECD, Speed Management, 2006, p. 44.

²³⁴ OECD, Speed Management, p. 44.

²³⁵ It should also be pointed out, for the sake of completeness that the offence of not wearing a seat belt is not detected automatically in many Member States, thus the impact of the Directive is limited to offences detected by enforcement authorities without stopping the vehicle and to the ones detected automatically in Member States that use speed camera that take a picture of the driver. The impact of the CBE Directive on the enforcement of the obligation to wear a seat belt, and thus on fatalities and injuries, could be much higher if Member States would use speed camera that take pictures of a driver.

Most importantly, data on enforcement may help to foresee the likely impact of the Directive on fatalities and fatal accidents when all Member States will have implemented the CBE directive.

The Evaluation team considered the impact of the CBE Directive on enforcement in order to assess whether and to what extent the cross-border enforcement of the targeted offences was improved by the implementation of the CBE Directive.

In assessing the impact of the CBE Directive on enforcement the Team took into account the information provided by the EU Member States' authorities on the situation of cross-border enforcement of such offences before and after the implementation of the CBE Directive. The year chosen to assess the CBE Directive's impact on enforcement at the EU level was 2015, a year when the Directive was actively implemented by 14 Member States, i.e. 6 more than in 2014.

In addition the Team took into account the information on the payment rate of sanctions for CBE offences by vehicle owners after they receive an information letter pursuant to the CBE Directive. The estimate of the payment rate is specified in the Table below. This was done in order to estimate more accurately the rate of successful enforcement, as enforcement is to be considered successful when the financial penalty is paid.

Table 24 Payment rate for offences covered by the CBE Directive

AT	Varies depending on the MS
BE	54%
BG	N/P
CY	N/P
DE	N/P
ES	50%
FR	After the 1 st notification: from 65% to 75%; After the 2 nd notification: from 25% to 30%
LT	>50%
HU	About 35%-36%
NL	70-80% for offenders residing in Germany, France and Belgium

Concerning the condition of enforcement of road traffic sanctions against non-residents before the implementation of the CBE Directive, it should be noted that, before such implementation, only some Member States followed-up road traffic offences (committed by non-residents and detected without stopping a vehicle) using an electronic system for VRD exchange and on a systematic basis. These Member States were the Netherlands, Germany, and Belgium. Most Member States' enforcement authorities did not follow-up CBE offences or else did it occasionally and only by mail²³⁶. The ex-ante condition of

²³⁶ See Section 6.1.

enforcement was then compared to the one following the implementation of the CBE Directive for some Member States and at the EU level.

The comparison showed that further to the implementation of the CBE Directive:

- France has increased by more than 3,000%²³⁷ the follow-up of offences involving non-residents targeted by the CBE Directive and has likely enforced a number of sanctions 17 times higher than the number of sanctions enforced in the best case scenario before the CBE Directive²³⁸.
- Hungary and Poland, two countries that did not follow-up CBE offences before 2014, have increased the number of follow-ups and of possibly enforced sanctions for road-traffic offences involving non-residents from 0 to at least 30,000 (see Section 6.2).
- Netherlands follows-up a number of offences involving non-residents which is 30% higher than the one before the implementation of the CBE Directive²³⁹.
- The number of offences involving non-residents followed-up at the EU level increased (in 2015) by at least 230% despite the fact that not all Member States were actively implementing the CBE Directive in 2015²⁴⁰ and that some Member States started only in the late 2015 implementing it.

In addition, the Team estimated the possible increase of the number of offences followed-up under the CBE Directive when all Member States will be actively implementing it, compared to the situation before its implementation.

According to the Team's estimates, once all/most Member States will actively implement the CBE Directive, the increase will likely amount to more than 400%²⁴¹.

²³⁷ Indeed before the CBE Directive France cooperated bilaterally with Luxembourg and the offences committed by Luxembourg residents and followed-up by France can be estimated as 40,000. Since France in 2014 followed-up more than 1,400,000 CBE offences, the percentage increase of offences followed-up compared to the situation before the CBE Directive is huge i.e. 35 times higher.

²³⁸ If we consider the sanctions effectively enforced by France, i.e. the fines paid, assuming a rate of payment of around 50%, i.e. an average of the rate of payment for CBE offences, the number of offences enforced by France would amount to 700,000 (2014).

²³⁹ Based on the data provided by Netherlands we can estimate that before the implementation of the CBE Directive (in 2014) the Netherlands followed-up by around 442,000 CBE offences (speed and red light offences). Such offences were committed with Belgian and German registered vehicles. In 2015, the Netherlands followed-up 575,607 under the CBE Directive. Information provided by the Dutch authorities.

²⁴⁰ Concerning the possible improvements of the situation at the EU level we do not have numbers of offences followed-up by all Member States under bilateral agreements and we do not have the number of all searches carried out via EUCARIS by all Member States (as explained in Section 6.2). We have therefore estimated the possible number of overall offences followed-up via EUCARIS under the CBE Directive in 2015 and this should amount to more than 3,300,000. The estimates on the number of offences followed-up via EUCARIS are based on the data provided in Section 6.2, see Table 16, plus data provided by Germany which show that Germany carried out more than 700,000 searches in 2015 and Austria carried out around 300,000 thousand searches in 2015 concerning vehicles registered in Germany (data provided by German Authorities). As we do not have the total number of offences followed-up by Austria and we did not receive data from all countries on searches carried out in 2015 via EUCARIS, it is possible to state that the amount of 3,300,000 offences is a conservative estimate.

²⁴¹ Based on the Team estimates the full implementation of the CBE Directive will allow to follow-up at least 5,000,000 CBE offences in the EU. As explained above in Section 6.1 according to the Team's conservative estimates at least 10,000,000 CBE offences are committed by non-residents on an annual basis in the EU. In addition, as explained in Section 6.2, half of the offences committed by non-residents are followed-up via EUCARIS (see Section 6.2 for further details). The situation might improve, but the Team did not take into account possible improvements. Thus, our conservative estimates are that the CBE Directive will allow to follow-up at least 5,000,000 CBE offences when it will be implemented by most Member States. In order to clarify that these estimates are conservative it should be pointed out that in 2015 France followed-up more than 1,300,000 CBE offences, Germany followed-up nearly 800,000 CBE offences and the Netherlands

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The data above confirms that the impact on enforcement of the CBE Directive, calculated as the increase of offences followed-up under the CBE compared to number of offences followed-up before 2013, is substantial. It could be even greater when all Member States will have effectively implemented the CBE Directive and increased the use of automatic checking equipment to detect road traffic offences.

The Table below provides an overview of the gathered information concerning the follow-up of road traffic offences under bi-lateral/multilateral agreements. Where cooperation was systematic the relevant cell is filled in with a S.

followed-up more than 500,000 CBE offences. Thus, 3 EU Member States followed-up nearly half of the offences that, according to the conservative estimates of the Team, will be followed-up by all/most 28 Member States, when the Directive will be fully implemented.

Table 25 Cross-border enforcement before the implementation of the CBE Directive

	AT		DE	FI	LU	NL	SE
AT			S 100,000				
BE						100,000 ²⁴²	
DE	S 50,000 ²⁴³					S 300,000 ²⁴⁴	
FI							S 10,000
FR					S 40,000		
NL		S 200,000	S 250,000				
SE				S 10,000			
Total	1,000,000 (rounded)						

In conclusion, based on the above findings and estimates, the Evaluation team considers that the CBE Directive has improved and will most likely improve the cross-border enforcement of sanctions for road traffic offences.

6.3.8 Impact of the CBE Directive on awareness

The Evaluation team assessed the implementation of the provisions of the CBE Directive on awareness in order to identify its likely impacts on road users' awareness.

Such provisions require the Commission to make available on its website in all official languages a summary of the rules in force in Member States in the field covered by the CBE Directive. Member States are also required to provide information on the relevant rules to the Commission. It also requires Member States to provide road users with the necessary information concerning applicable rules in their territory and measures implementing the CBE Directive in association with, among other organizations, road safety bodies, non-governmental organizations active in the field of road safety and automobile clubs.

In order to implement the above provisions, the European Commission has created a specific webpage providing the relevant information concerning road traffic rules in force in all the Member States of the EU, i.e. the Commission Going Abroad webpage.

Based on the information received, in 2014, the Going Abroad page received 227,317 visits, 31% of visits to the Road Safety section of the mobility and transport site and 4.5% of visits to the whole mobility and transport site. The number of visits tends to increase in June and July.

²⁴² Estimates made by the Contractor based on the requests made by Belgium to Germany in 2015. The Evaluation team assumed that a double number of offences committed by Dutch residents in Belgium was followed-up under bilateral cooperation. This is an estimate that is likely higher than the real number of offences committed by Dutch residents on Belgian soil.

²⁴³ Estimates made by the Team based on outgoing requests made by Germany to Austria under the CBE on an yearly basis (i.e. assuming that Germany was following-up under bi-lateral cooperation a number of offences similar to the one followed-up under the CBE, which is likely to be not the case, because cooperation between Austria and Germany was paper-based before the CBE).

²⁴⁴ Estimates made by the Team. In 2015 DE sent less than 300,000 requests under the CBE Directive to Netherlands. Thus we estimated that a similar number of requests was sent by DE to Netherlands under bilateral cooperation.

These trends are likely linked to the fact that the website is visited by drivers going on holiday, in order to find information on rules in force in the Member States where they intend to travel.

They could also be an indication that the information provided by the Going Abroad page actually fills a knowledge gap of some road users. The European Commission has also created a specific application aimed at providing information on road safety rules, the Going Abroad App.

Based on the information provided by the relevant services of the European Commission the number of downloads is growing at a constant pace with around 30-50 downloads per day and peaks of 150-300 downloads which follow specific initiatives aimed at promoting the application²⁴⁵. The total number of downloads amounted to 86,538 in the period going from June 2014 to August 2015.

The above trends seem to indicate that an increasing number of road users have access to information concerning road traffic rules in force in Member States where they do not reside.

The Going Abroad webpage is perceived as a useful source of information by most of the consulted stakeholders, including transport experts from national enforcement authorities (Indicator N° 8).

As for national websites, Belgian website www.wegcode.be receives, on a monthly basis, about 50,000 visits on the Flemish site and about 47,000 on the French site. This showing that national initiatives aimed at improving the awareness of road users, where in place, might be filling a knowledge gap. In addition the page on Cross Border Enforcement of the website of Federal Public Service Mobility and Transport: (mobility.fgov.be) is visited circa 80 - 160 times per month, thus around 1,000 times per year.

French website <http://www.preventionroutiere.asso.fr/> provides information to the drivers travelling in Europe and has had 15,000 visits in 2014. It also provides specific information for the drivers going abroad, plus a link to the European Commission website.

The data above might indicate that an increasing number of road users has access to information related to rules on cross-border enforcement and on information on the road traffic rules applicable in other Member States. Regrettably, we were not provided with data on the number of visits to web pages or websites providing information for road users intending to travel abroad in EU Member States other than Belgium and France.

However, based on data provided by France and Belgium and by the Commission the Evaluation team estimated that on a yearly basis at least around 400,000²⁴⁶ road users in the EU are provided with information on EU road traffic rules by means of dedicated online tools. Stakeholders were also consulted on road users' awareness concerning the necessity to comply with road traffic rules. The majority of stakeholders, representing mostly enforcement authorities and road safety research centres or road safety NGOs, who expressed an opinion, concluded that road users are aware/more aware of road traffic rules in force in other Member States (Indicator N° 7) and indicated the Going

²⁴⁵ Information provided by the EC Commission.

²⁴⁶ This estimate does not take into consideration that information got by one member of a household might be spread to the family members and thus the number of road users informed could be two or three times greater.

Abroad page and the information provided on such page as a tool providing the necessary amount of information to inform road users of the rules in force in other Member States.

In addition it is referred that the CBE Directive implementation was matched at the national level, in some Member States, by information on the national press which have likely improved the road users' awareness of the necessity to comply with road traffic rules when driving abroad and by campaigns. This was the case for example in Belgium, Greece, Spain and Finland. The Team could not estimate the impact of campaigns and brochures and of information provided by media at national level but notes that transport stakeholders such as the European Transport Safety Council confirmed that the introduction of the CBE Directive has increased the level of awareness, raising the interest of the press on road safety issues related to driving behaviours of non-residents.

That said, regrettably, the impact of the CBE Directive's measures on road users' awareness could not be quantified by the Evaluation team since no road user took part in the open consultation carried out by the Team, and since none of the consulted stakeholders could provide figures on the specific impact of the CBE Directive's measures on road users' awareness.

The analysis carried out by the Team also spotted that most Member States have not expressly transposed/implemented the CBE Directive's provisions on awareness at the national level and many transport authorities perceive that the implementation of such CBE Directive provisions on awareness required merely the provision of information to the Commission on the road traffic rules in force in their respective Member State. Such authorities seem to neglect the fact that the Directive requires also Member States to provide road users with the necessary information about road traffic rules, and about the rules implementing the CBE Directive in association with a set of road safety organizations, i.e. to actively promote the awareness of road users on the necessity of complying with road traffic rules when driving abroad.

In addition, most of the consulted stakeholders were not able to identify specific campaigns aimed at raising the awareness of road users at the national level. This lack of campaigns was also pointed out as a major shortcoming of the implementation of the Directive by a minority of stakeholders.

Against this background, the Evaluation team concluded that the fact that Member States provided the Commission with relevant information on road traffic rules in their respective Member States can be considered as a partially effective implementation of the CBE Directive, considering that the Going Abroad webpage includes information on existing road traffic rules in each Member State in all the official languages of the EU and that the above initiative has at the very least, made information more easily accessible to all EU road users.

However, the Evaluation team concluded that the implementation of the provisions on awareness at the Member State level is not fully satisfactory due to the fact that most Member States and stakeholders were not able to identify specific measures and/or campaigns or national web pages where the impact of the CBE Directive was explained to a non-technical audience.

Notably, the Evaluation team found that 13 Member States did not adopt specific initiatives aimed at explaining that anonymity when driving abroad has come to an end.

In conclusion, the Team inferred that it is possible that the initiatives, undertaken at the EU level under the CBE Directive and at the national level by some Member States in order to raise the awareness of road users, increased to some extent the road users' awareness and that at least 400,000 road users are likely to be better informed of the

road traffic rules in force in other Member States than before the implementation of the CBE Directive. This estimate is very conservative as data on visits to relevant web pages was provided only by the Commission and two Member States and as it is likely that information gathered by one member of a household or one member of a group of travellers is shared with family members or trip mates. Thus information on road traffic rules could likely reach an audience of more than 1,000,000 road users.

However, the fact that the consulted stakeholders could not provide data allowing for the quantification of visits received, on a yearly basis in 2014 and 2015, by national websites and web pages (advertising the entry into force of the CBE Directive and its impact on enforcement), substantially limits the possibility to assess the concrete impact of the CBE Directive on road users' awareness.

A further limit is constituted by the fact that road users did not take part in the consultation carried out within this Evaluation.

6.3.9 Conclusions

The findings of this Evaluation allow the Team to draw some conclusions: (i) on the CBE Directive's impact on fatalities and notably on fatalities involving non-residents and on the share of fatalities represented by fatalities involving non-residents of all fatalities (indicator N° 2); (ii) on compliance with road traffic rules covered by the CBE Directive and on enforcement of road traffic rules against non-residents (Indicator N° 1); (iii) and on the extent to which the access to information concerning road traffic rules in force in other Member States has become accessible to road users (Indicator N° 8).

First, the analysis found indications that CBE Directive implementation contributed to a reduction of fatalities (and fatal accidents) involving non-residents in 2014 compared to 2013 and of the share of fatalities (and fatal accidents) involving non-residents of all fatalities (fatal accidents) (Indicator N° 2). Such reduction was registered in most Member States (among those which provided data) that were implementing the CBE Directive in 2014. Only one Member State registered an increase of fatalities involving non-residents, but this was matched by a similar increase of all fatalities.

Secondly, it can be argued that CBE Directive implementation has already had an impact on the compliance level of non-resident offenders and their behaviour with regard to speeding offences.

Indeed, two Member States, France and Poland (Indicator N° 1), that were actively implementing the CBE Directive, registered, from early on into its implementation, a decrease in the share of speeding offences committed by non-residents as well as an increase in the number of followed-up offences. In addition, the fact that **a large number of Member States is following-up road traffic offences committed by non-residents under the CBE Directive in 2014 and 2015** compared to the previous years has likely had an impact on compliance to the extent that it has shown the improvement of cross-border enforcement of sanctions for road traffic offences. On this matter, the Team concluded that CBE directive implementation has likely improved the credibility of cross-border enforcement of road traffic rules by increasing it by more than 200%.

Against this background, it could be argued that the positive impact of the CBE Directive on cross-border enforcement has likely also positively affected road fatalities, although such an argument is not supported by detailed data.

In conclusion, the combination of the above factors allowed the Team to conclude that the CBE Directive might have to some extent directly positively impacted the level of compliance with road traffic rules when driving abroad and indirectly contributed to a reduction of the number of accidents and fatalities on EU roads.

The Team also concludes that the measures of the CBE Directive on awareness have contributed to make available, to all EU road users, information on road traffic rules in force in all EU Member States. Whether the availability of such information has increased EU citizens' awareness, although likely at least for more than 400,000 road users²⁴⁷, could not be assessed due to the following concurring facts: (i) consulted stakeholders did not provide specific relevant data but mostly qualitative opinions; (ii) road users did not participate to our stakeholder consultation; (iii) and the Team's desk research did not gather data that would allow for a quantification of the impact of the CBE Directive measures on road users' awareness.

²⁴⁷ Estimates based on the number of visits to web pages providing relevant information on road traffic rules and on the number of downloads of applications providing similar information.

6.4 Efficiency of the CBE Directive

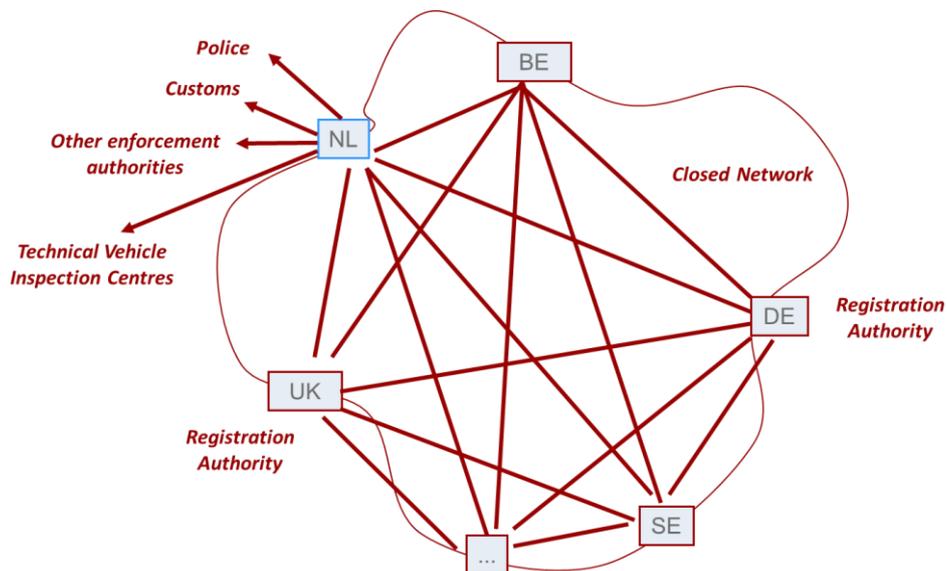
As mentioned in Article 4(5) of the CBE Directive, each Member State shall bear its costs arising from the administration, use and maintenance of the EUCARIS/CBE application. Conversely, they may also benefit from the implementation of the CBE Directive: (i) Direct economic benefits - increase in the financial revenues coming from the enforcement of the sanctions related to road traffic offences; and (ii) Indirect economic benefits - reduction in the number of traffic accidents and fatalities on EU roads.

This Section aims to go into detail in the positive and negative impacts of the CBE Directive, with regards to the costs and revenues it generates on Member States. In addition, this section verifies whether an alternative mechanism could serve the purpose of the CBE Directive, while achieving the same benefits at less cost (or greater benefits at the same cost). Based on this analysis, and on the previous findings from this report, the Evaluation team will then conclude on the efficiency of the Directive.

6.4.1 Costs related to vehicle registration data exchange and VRD exchange follow-up

In order to understand, the structure of the costs behind EUCARIS, for EU Member States, Figure 7 depicts EUCARIS architecture.

Figure 7 Overall architecture of EUCARIS



Source: Presentation from Association of European Vehicle and Driver Registration Authorities, 21.11.2012

As illustrated above, EUCARIS uses a decentralised set-up in which all participating countries are connected to each other via National Contact Points (NCPs) and are able – by means of an interface – to search in each other's register, without influencing the national chosen set up of their registers. Hence, there is no centralised system and no central register²⁴⁸.

²⁴⁸ Analysis of structured e-Document formats used in Trans-European Systems, Survey on standardized e-Document formats, European Commission, 15.05.2014.

Based on the feedback received from EU Member States, the overall costs that are incurred on them for vehicle registration data exchange can be divided into four categories (Indicator N° 27):

- Development, support and maintenance of the EUCARIS/CBE application by the EUCARIS Secretariat (**cost category 1**);
- Development and maintenance of a software 'plug-in' application at the national level to connect the EUCARIS/CBE application with the national registry of vehicle and driving licence information (**cost category 2**);
- Maintenance of the connection between national registries and the EUCARIS/CBE application (**cost category 3**); and
- Administrative costs required by the national contact points and civil servants to implement the CBE Directive²⁴⁹ (**cost category 4**).

While the cost estimates of each of these categories are further detailed in the Sub-section 6.4.1.1, the costs related to the follow-up procedures is explained separately in the Sub-section 6.4.1.2.

6.4.1.1 Costs related to vehicle registration data exchange

As mentioned, four cost categories were identified for EU Member States to exchange vehicle registration data. Before assessing the total costs of vehicle registration data exchange for the EU28, each of these four cost categories is explained into detail.

Cost category 1

RDW/NL provided the annual implementation costs related to the development (D), support (S) and maintenance (M) of the EUCARIS/CBE application for each Member State and at EU level, in the period 2013-2017, as shown in the Table below.

Table 26 Implementation costs related to the development, support and maintenance of EUCARIS/CBE application

Year	Type of Cost			Annual implementation costs (per MS)	Annual implementation cost (at EU level)	Comment
	D	S	M			
2013	X	X		EUR 8,805	EUR 211,320	24 EU Member States
2014	X	X		EUR 2,633	EUR 65,825	25 EU Member States (24 + HR)
2015	X	X		EUR 1,680	EUR 42,000	25 EU Member States
2016	X	X	X	EUR 1,250	EUR 35,000	28 EU Member States (25 + UK, IE and DK)
2017	X	X	X	EUR 1,250 ²⁵⁰	EUR 35,000	28 EU Member States

Source: Interview with RDW/NL on 15.09.2015

²⁴⁹ This cost category is focused on the administrative costs to literally implement the binding articles of the CBE Directive, e.g. Article 6, related to the reporting of Member States to the European Commission. This category does not include the costs of initiating follow-up procedures, since this decision remains up to each Member State. The costs of the follow-up procedures are estimated in Section 6.4.1.2.

²⁵⁰ In 2013, a total of 24 EU Member States are concerned by these costs (HR, DK, IE and UK not included); against 25 in 2014 and 2015 (DK, IE and UK not included) and 28 in 2016 and 2017.

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Notes: Actual cost for 2013-2015, Forecast for 2016-2017. The implementation costs were only applicable to HR from 2014 (after its entry in the EU) and to UK, IE and DK from 2016 (after the legal basis of the CBE Directive moved from JHA to transport, removing their right to opt-out).

The costs included in the Cost category N°1 are strictly limited to the EUCARIS/CBE application and do not consider the development, maintenance and support costs of the EUCARIS system as a whole.

Cost category 2

Member States must develop and maintain the software application, or so-called 'plug-in' application, needed to connect the national registries of vehicle and driving licence information to the EUCARIS/CBE application.

The development costs of this application were assessed by three EU Member States in their answer to Q1.18 from "Questionnaire addressed to Member States' authorities'.

While one country estimated the one-off cost to be EUR 48,000, another country assessed it at EUR 50,000 and a third country at EUR 55,000; the other countries did not provide any estimate on that cost.

Therefore, the Evaluation concludes that the one-off cost is approximately EUR 50,000 per Member State, while the recurrent cost for maintaining this application is approximately EUR 5,000 per year (ongoing costs). This is assuming that yearly maintenance costs amount to 10% of the total development costs²⁵¹.

As a result, based on the year of development of the application by each Member State, the estimates of this cost category at EU level are presented in Table below.

Table 27 Implementation costs related to the development and maintenance of the national interface

Year	Type of Cost		Annual implementation cost (at EU level)	Comment
	D	M		
2013	X	X	EUR 700,000	14 EU Member States developing the EUCARIS/CBE application (including the 'plug-in' application): AT, BE, BG, DE, ES, FR, HU, LT, LV, NL, PL, RO, SE, SK.
2014	X	X	EUR 270,000 ²⁵²	4 EU Member States developing the EUCARIS/CBE application (including the 'plug-in' application): EE, EL, HR, IT. 14 EU Member States maintaining the application: AT, BE, BG, DE, ES, FR, HU, LT, LV, NL, PL, RO, SE, SK.

²⁵¹ By assuming a yearly maintenance cost of 10% of the total development costs, maintenance costs represent 40% of the Total Cost of Ownership on this cost category for the period 2013 – 2017. Given that several factors influence this rate, the literature has not converged towards a specific rate. However, based on their extensive experience in conducting ICT assessments and cost-benefit analysis on pan-European systems (e.g. assessment of ICT impacts of possible improvements to the SIS II architecture – DG HOME; assessment of ICT impacts of the legislative proposal for ECRIS TCN system regarding the exchange of convictions for third country nationals and stateless people – DG JUST, Cost-benefit analysis for European Electronic Access Point (EEAP) - ESMA), the Contractor considers 40% as a reasonable rate for this cost category.

²⁵² Based on the information indicated in the comments, this result is the sum of the development costs for the 4 concerned EU Member States (50,000*4) and the maintenance costs for the 18 concerned EU Member States (18*50,00). The subsequent years follow the same logic.

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Year	Type of Cost		Annual implementation cost	Comment
2015	X	X	EUR 240,000	3 EU Member States developing the EUCARIS/CBE application (including the 'plug-in' application): LU, MT, SI 18 EU Member States maintaining the application: AT, BE, BG, DE, EE, EL, ES, FR, HR, HU, IT, LT, LV, NL, PL, RO, SE, SK.
2016	X	X	EUR 455,000	7 EU Member States developing the EUCARIS/CBE application (including the 'plug-in' application): CY, CZ, DK, FI, IE, PT, UK. 21 EU Member States maintaining the application: AT, BE, BG, DE, EE, EL, ES, FR, HR, HU, IT, LT, LU, LV, MT, NL, PL, RO, SE, SI, SK.
2017	X	X	EUR 140,000	28 EU Member States

Source: EUCARIS Services; status per Member State as of 01.09.2013, 12.12.2014 and 08.10.2015; non published documents provided by RDW/NL. Answers received to Q1.18 of 'Questionnaire addressed to Member States' authorities'; 11.12.2015

Notes: Actual cost for 2013-2015, Forecast for 2016-2017. The one-off cost related to the development of the 'plug-in' application is based on the year of development of the EUCARIS/CBE application in each Member State (e.g. Year X), while the ongoing costs related to the maintenance of that application apply from the year following its development (e.g. Year X+1).

Caveat: The analysis on the development of a software 'plug-in' application incurred on EU Member States is based on three EU Member States. Their answers may not be representative of the 28 EU Member States concerned by the CBE Directive.

Cost category 3

In addition to the above-mentioned costs, Member States must pay a yearly general maintenance fee for their EUCARIS connection, as confirmed by the interview with RDW/NL. This fee is equal to EUR 15,000 per year. This fee being fixed per year, it represents the same cost for EU Member States whether they use the EUCARIS connection for one, two or more applications. However, if we consider the cost of the EUCARIS connection per unit (or application), then the number of EUCARIS applications owned by each EU Member State becomes important to consider: the higher the number of applications, the lower the costs per unit.

In this regards, when focusing on the EUCARIS connection cost for the specific purpose of the EUCARIS/CBE application, the cost of the latter application should be considered as follows: EUR 15,000 for a country having this application as operational only, EUR 7,500 for a country having two EUCARIS applications operational (including the EUCARIS/CBE application), EUR 2,500 for a country having six EUCARIS applications as operational (including the EUCARIS/CBE application), etc.

The Table below presents the computation of these costs, based on the number of EUCARIS applications operational in each Member State and on the status of implementation of the EUCARIS/CBE application itself (i.e. operational or not).

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Table 28 Costs related to the maintenance of the EUCARIS connection

Year	Type of costs	Annual costs related to the maintenance of the EUCARIS connection (at EU level)	Comment
	M		
2013	X	EUR 0	The EUCARIS/CBE application was not operational in EU Member States, no fees therefore applied.
2014	X	EUR 83,750 ²⁵³	7 EU Member States had 2 applications in operation (including the EUCARIS/CBE application) – cost of EUR 7,500 per application 5 EU Member States had 3 applications in operation (including the EUCARIS/CBE application) – cost of EUR 5,000 per application 1 EU Member State had 4 applications in operation (including the EUCARIS/CBE application) – cost of EUR 3,750 per application 1 EU Member State had 6 applications in operation (including the EUCARIS/CBE application) – cost of EUR 2,500 per application
2015	X	EUR 102,643	1 EU Member State had 1 application in operation (i.e. the EUCARIS/CBE application) – cost of EUR 15,000 5 EU Member States had 2 applications in operation (including the EUCARIS/CBE application) – cost of EUR 7,500 per application 6 EU Member States had 3 applications in operation (including the EUCARIS/CBE application) – cost of EUR 5,000 per application 4 EU Member States had 4 applications in operation (including the EUCARIS/CBE application) – cost of EUR 3,750 per application 1 EU Member State had 5 applications in operation (including the EUCARIS/CBE application) – cost of EUR 3,000 per application 1 EU Member State had 7 applications in operation (including the EUCARIS/CBE application) – cost of EUR 2,143 per application

²⁵³ Based on the information indicated in the comments, this result is the sum of $7*(15000/2) + 5*(15000/3) + 1*(15000/4) + 1*(15000/6)$. The subsequent years follow the same logic.

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Year	Type of costs	Annual costs related to the maintenance of the EUCARIS connection (at EU level)	Comment
2016	X	EUR 101,810 ²⁵⁴	<p>1 EU Member State is expected to have 1 application in operation (i.e. the EUCARIS/CBE application) – cost of EUR 15,000</p> <p>2 EU Member States are expected to have 2 applications in operation (including the EUCARIS/CBE application) – cost of EUR 7,500 per application</p> <p>7 EU Member States are expected to have 3 applications in operation (including the EUCARIS/CBE application) – cost of EUR 5,000 per application</p> <p>8 EU Member States are expected to have 4 applications in operation (including the EUCARIS/CBE application) – cost of EUR 3,750 per application</p> <p>1 EU Member State are expected to have 5 applications in operation (including the EUCARIS/CBE application) – cost of EUR 3,000 per application</p> <p>1 EU Member State are expected to have 7 applications in operation (including the EUCARIS/CBE application) – cost of EUR 2,143 per application</p> <p>1 EU Member State are expected to have 9 applications in operation (including the EUCARIS/CBE application) – cost of EUR 1,667 per application</p>
2017	X	EUR 138,542 ²⁵⁵	<p>2 EU Member States are expected to have 1 application in operation (i.e. the EUCARIS/CBE application) – cost of EUR 15,000</p> <p>3 EU Member States are expected to have 2 applications in operation (including the EUCARIS/CBE application) – cost of EUR 7,500 per application</p> <p>7 EU Member States are expected to have 3 applications in operation (including the EUCARIS/CBE application) – cost of EUR 5,000 per application</p> <p>8 EU Member States are expected to have 4 applications in operation (including the EUCARIS/CBE application) – cost of EUR 3,750 per application</p> <p>5 EU Member State are expected to have 5 applications in operation (including the EUCARIS/CBE application) – cost of EUR 3,000 per application</p> <p>1 EU Member State is expected to have 6 applications in operation (including the EUCARIS/CBE application) – cost of EUR 2,500 per application</p> <p>1 EU Member State are expected to have 8 applications in operation (including the EUCARIS/CBE application) – cost of EUR 1,875 per application</p> <p>1 EU Member State are expected to have 9 applications in operation (including the EUCARIS/CBE application) – cost of EUR 1,667 per application</p>

²⁵⁴ The assumptions made for the 2016 forecasts are based on the number of applications under development in each EU Member State in 2015 (we assume that these will become operational in 2016) and on the fact that the EUCARIS/CBE application is expected to become operational in three more EU Member States in 2016 (LU, SI and IT).

²⁵⁵ The assumptions made for the 2017 forecasts are based on the assumptions made for 2016, on the growth rate of each Member State regarding their number of operational applications between 2014 and 2016 and on the fact that the EUCARIS/CBE application is expected to become operational in seven more EU Member States in 2016 (CY, CZ, PT, FI, DK, UK, IE).

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Source: Interview with RDW/NL on 15.09.2015. EUCARIS Services; status per Member State as of 01.09.2013, 12.12.2014 and 08.10.2015; non published documents provided by RDW/NL.

Notes: Actual cost for 2013-2015, Forecast for 2016-2017. The annual implementation cost related to the maintenance of the EUCARIS connection for the specific purpose of the EUCARIS/CBE application is function of the number of operational EUCARIS applications in each Member State, each year (including the EUCARIS/CBE application).

Cost category 4

Finally, the implementation of the CBE Directive requires time from the national contact points appointed by Member States and from the concerned civil servants at the national level to perform additional administrative activities and follow-up proceedings.

The CBE Directive in particular directly refers to the submission of an information letter in the language of the registration document to the non-resident offender, when a Member State decides to initiate follow-up proceedings in its Article 5 (3) and to the reporting by Member States to the Commission in its Article 6.

To assess the administrative costs, the Evaluation team followed the Standard Cost Model (SCM) methodology²⁵⁶ in line with the Better Regulation Guidelines²⁵⁷. In this regard, EU Member States were asked to assess the price, frequency and the time spent to perform a series of administrative activities in the "questionnaire on statistical data".

While, as mentioned in Section 5.2.2, the latter was answered by eight countries, the specific question related to the assessment of the administrative activities generated by the CBE Directive received four responses only (50%). Overall, four EU Member States (4) assessed the main administrative activities generated by the CBE Directive regarding vehicle registration data exchange and the execution of the follow-up procedures related to the enforcement of sanctions, for those road safety related traffic offences committed by non-resident offenders, as displayed in Table 29. The other four countries (4) were not able to provide any estimate since they had never monitored these costs.

Table 29 Administrative activities generated by the CBE Directive

Administrative activities	EU Countries			
	C1	C2	C3	C4
Presentation of figures	X	X	X	
Checking	X	X	X	
Familiarisation with the information obligation	X		X	X
Information retrieval	X		X	X
External meetings	X	X		X
Reporting/submitting information		X	X	X
Calculation		X	X	
Correction	X		X	
Assessment			X	
Internal meetings	X			X
Training, updating on statutory requirements			X	
Copying, distribution, filing, etc.			X	
Inspections by public authorities				
Correction result from inspection by public authorities				
Settlement/payment				
Other				

Source: Answers received to Q7 of 'Questionnaire on statistical data'; 11.12.2015

²⁵⁶ Adaptation from the International Standard Cost Model Manual, Measuring and reducing administrative burdens for businesses, Standard Cost Model (SCM) Network.

²⁵⁷ [SWD\(2015\) 111 final, Commission Staff Working document, Better Regulation guidelines, {COM\(2015\) 215 final; SWD\(2015\) 110 final}, European Commission, Strasbourg, 19.5.2015.](#)

As displayed above, and based on the answers from four EU Member States, **the main administrative activities incurred on EU Member States for the purpose of the CBE Directive tend to be related to the presentation of figures, checking, familiarisation with the information obligation, information retrieval, external meetings and reporting/submitting information.**

Caveat: The analysis on the administrative activities incurred on EU Member States for the purpose of the implementation of the CBE Directive is based on four EU Member States. Their answers may not be representative of the 28 EU Member States concerned by the CBE Directive.

As explained by the respondent from BE, it takes a significant amount of time to gather, check and compare figures for the reporting to the Commission, for instance, since several stakeholders and types of information are involved (e.g. number of searches performed using the EUCARIS/CBE application).

While four EU Member States were able to select the main administrative activities generated by the CBE Directive, BE assessed the cost of each activity. Based on this input, the Contractor elaborated a case study on the administrative activities incurred by the CBE Directive on BE for complying with Article 6 of the CBE Directive, on the reporting of Member States to the Commission.

Evaluation study on the application of the CBE Directive

Case study on administrative costs (Country A)

Overall, 5 to 6 resources have been working (not full time) on the CBE during the last three years in County A.

- From a time and quantity perspective, the work performed by these resources was said to be equivalent to 1FTE having worked 1.5 days per week on the subject, for three years.
- From a price perspective, the costs generated by the CBE Directive were assessed to be approaching EUR 75,000 over three years. This however includes the previously mentioned amount paid to EUCARIS Secretariat for the development, implementation and maintenance of the EUCARIS/CBE application (8,805+2,633+1,680= 13,118) and the maintenance of the connection (15,000/4=3,750) – taking into account that BE has four services – resulting in a total of EUR 16,868 (13,118 + 3,750 = 16,868). **The cost related to administrative activities is therefore assessed at EUR 58,132 over three years** (75,000 – 16,868 = 58,132).

Assuming that each year has 48 working weeks, **these estimates would result in a daily rate of EUR 269/ FTE** (58,132/ (1*1.5*48*3) = 269). The Contractor has used this rate to quantify the cost of each administrative activity mentioned by BE and triangulate the estimates.

The administrative activities included under the above umbrella are primarily related to internal and external meetings, information retrieval and checking and the time needed to familiarise with the activities related to the CBE.

- A total of 12 internal meetings were held in 2013 and 2014, with regards to the implementation of the CBE Directive (1 meeting per month). Assuming that the same number of meetings is to be held in 2015, and taking into account that each meeting involves 3 FTEs for 1 hour, the cost of internal meetings on the CBE amounts to EUR 1,210 per year ($((12*3*1)/8)*269 = 1,210$).
- External meetings are also held with several stakeholders, e.g. Justice, Police, Finance, IT. In 2013, a total of 13 meetings with external persons of Justice, Police, Finance, IT were held, against 2 in 2014 and 1 in 2015. Taking into account that each external meeting takes 2 days to prepare, participate and make a report afterwards and involves 3 FTEs, the cost of external meetings on the CBE amounts to EUR 20,982 in 2013 ($13*2*3*269=20,982$); EUR 3,228 in 2014 ($2*2*3*269=3,228$) and EUR 1,614 in 2015 ($1*2*3*269=1,614$).
- As mentioned previously, the time needed to gather, check and compare figures for reporting purposes is relatively high. It was assessed by BE at 1.5 FTE during 10 days for each reporting.

Given the rate of EUR 269/FTE, from a price perspective, each reporting activity costs EUR 4,035 ($269*15=4,035$). The Contractor assumes that one reporting per year was performed by BE.
- As mentioned, 5 to 6 FTEs have been working on the CBE during the last three years. The time needed for a new FTE to learn about the subject is estimated at 0.5 day a month. Assuming that the number of new resources is equal over years (i.e. 2 per year) and that each resource initially had to learn from scratch about the CBE, this results in 3,228 EUR per year ($0.5*2*12*269=3,228$).
- **As a result, the total amount of administrative costs generated by the CBE Directive in A reached EUR 29,455 in 2013; EUR 11,701 in 2014; and EUR 10,087 in 2015, i.e. a total of EUR 51,243 over three years.**
- Given that the overall estimate was EUR 58,132 and that the estimate per type of activity results in EUR 51,243; the Contractor assumes that **the administrative costs related to the implementation of the CBE Directive in BE amounted to EUR 55,000 over three years.**
- Based on the estimates per type of activity, it seems that around 50% of these costs were allocated to the first year of implementation of the CBE Directive and the over 50% equally shared between the two subsequent years. In this regards, the Contractor assumes that the administrative activities cost EUR 27,500 in 2013 and EUR 13,750 in 2014 and 2015 respectively.

Following the results of the above case study, the Evaluation team estimated the value of the time spent by the County A national contact points and civil servants to perform the administrative activities required to fully implement the CBE Directive at EUR 55,000

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over three years, i.e. EUR 27,500 in 2013 and EUR 13,750 in 2014 and 2015 respectively.

Taking into account that BE clearly mentioned the high amount of time spent on administrative activities for fulfilling the reporting obligations stipulated in the CBE Directive and, considering that all EU Member States are equal in front of these reporting obligations, the Contractor assumed that the administrative costs estimated by BE were the same for all national contact points. The following estimates were therefore extrapolated to all EU Member States: EUR 27,500 during the year of development of the EUCARIS/CBE application; and EUR 17,500 for each subsequent year.

This assumption was also taken in light of the few responses received; Country A being the only country having come with precise quantitative estimates of the time spent on each type of administrative activity. Table 30 gives a view of these costs for all EU Member States between 2013 and 2017.

Caveat: The costs of performing administrative activities for the purpose of the implementation of the CBE Directive were extrapolated to the 28 EU Member States based on the estimates provided by County A. These estimates may however not be representative of the 28 EU Member States concerned by the CBE Directive.

Table 30 Administrative costs incurred to EU Member States by the CBE Directive

Year	Type of Cost		Annual administrative costs (at EU level)	Comment
	D	M		
2013	X	X	EUR 385,000	14 EU Member States developing the EUCARIS/CBE application (including the 'plug-in' application): AT, BE, BG, DE, ES, FR, HU, LT, LV, NL, PL, RO, SE, SK.
2014	X	X	EUR 302,500 ²⁵⁸	4 EU Member States developing the EUCARIS/CBE application (including the 'plug-in' application): EE, EL, HR, IT. 14 EU Member States maintaining the application: AT, BE, BG, DE, ES, FR, HU, LT, LV, NL, PL, RO, SE, SK.
2015	X	X	EUR 330,000	3 EU Member States developing the EUCARIS/CBE application (including the 'plug-in' application): LU, MT, SI 18 EU Member States maintaining the application: AT, BE, BG, DE, EE, EL, ES, FR, HR, HU, IT, LT, LV, NL, PL, RO, SE, SK.
2016	X	X	EUR 481,250	7 EU Member States developing the EUCARIS/CBE application (including the 'plug-in' application): CY, CZ, DK, FI, IE, PT, UK. 21 EU Member States maintaining the application: AT, BE, BG, DE, EE, EL, ES, FR, HR, HU, IT, LT, LU, LV, MT, NL, PL, RO, SE, SI, SK.
2017	X	X	EUR 385,000	28 EU Member States

Source: Answer received by BE to Q7 of 'Questionnaire on statistical data'; Kurt Salmon cost computation; 11.12.2015.

Notes: The annual administrative costs are based on the estimates provided by Country A: Year 1: EUR 27,500, Year 2: EUR 13,750 and Year 3: EUR 13,750; Year 1 being the year preceding the year of operation of

²⁵⁸ Based on the information indicated in the comments, this result is the sum of the costs for Year 1 for the 4 concerned EU Member States (13750*4) and the costs for Year 2 for the 14 concerned EU Member States (27500*14). The subsequent years follow the same logic.

the EUCARIS/CBE application in each country. In the case of BE, while the application was operational in 2014, the highest administrative costs indeed occurred in 2013.

From a qualitative perspective, it should be noted that, when asked about the aspects of the mechanisms put in place by the Directive that are not necessary and only generate unnecessary administrative burden/or make the entire procedure longer than necessary, the difficulty to comply with the Article 5 and Article 6 of the CBE Directive²⁵⁹ was quoted by four and one respondent respectively. Even though these articles aim to ensure a consolidated view of road-traffic offences at EU level and to guarantee an equal treatment to all EU citizens to access information, they can be challenging to implement for EU Member States.

When it comes to reporting obligations, it may be time-consuming, difficult, and even sometimes impossible, to collect all the information needed from the European Commission, as mentioned by one survey respondent. Regarding the translation requirement, while the Commission already provided a template for the information letter in the Annex II of the CBE Directive and has translated it in all official languages of the EU, EU Member States still need to spend a significant amount of time translating the additional fields they may need in the information letter or the answers from non-resident offenders (in their native language) to the information letter sent by an EU Member State.

Total costs

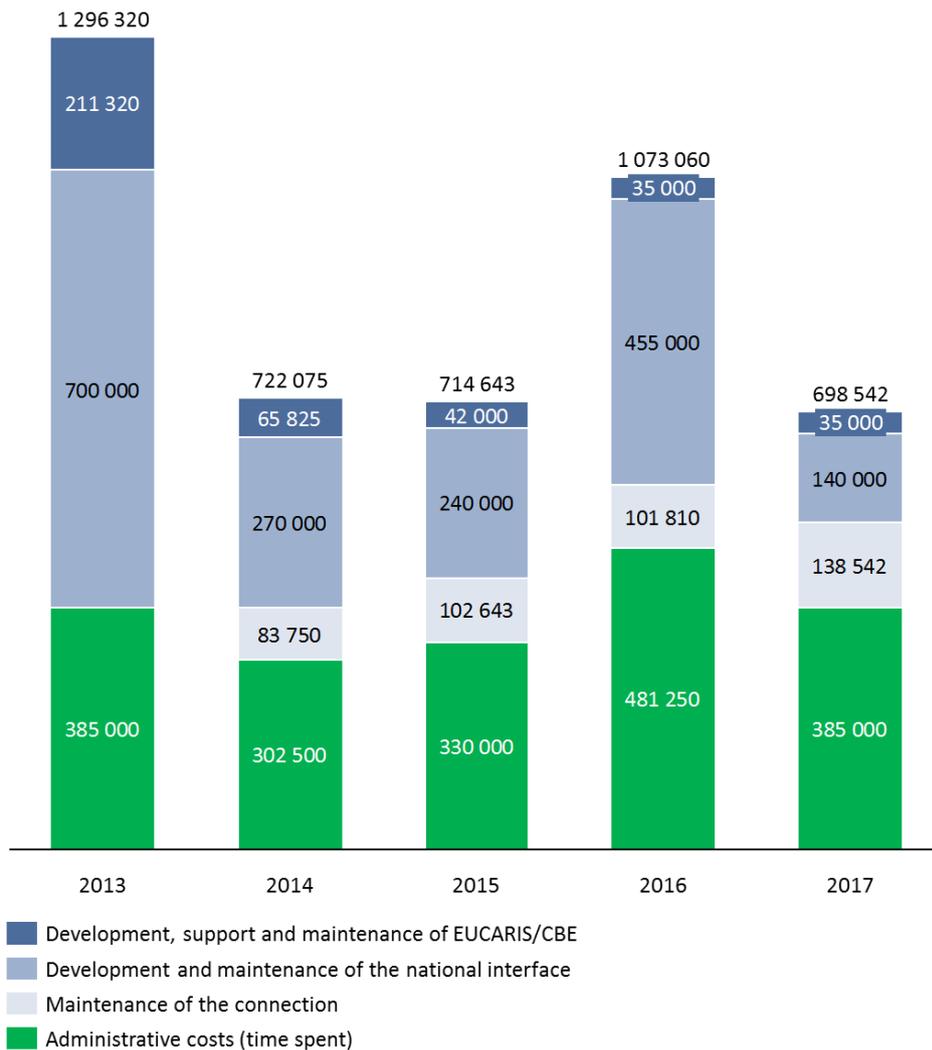
Based on the above estimates and taking into account the year of implementation of the EUCARIS/CBE Directive in each Member State and the number of EUCARIS applications in place in each Member State, the Evaluation team was able to compute the estimated overall costs that are incurred at the EU level for vehicle registration data exchange and follow-up proceedings.

As mentioned, the costs related to the development, support and maintenance of the EUCARIS system as a whole (see Section 6.2.6) are excluded from the overall costs displayed in Table 30, the system being not only used by the CBE application but by many others (e.g. ERRU, TACHONET and RESPER) in all EU Member States, except Portugal, which has not yet embraced the EUCARIS technology.

²⁵⁹ Article 5 of the CBE Directive is related to the information letter that may be sent by the Member State of the offence to the owner, holder of the vehicle or to the otherwise identified person suspected of committing a road-safety-related traffic offence, when the Member State of the offence decides to initiate follow-up proceedings in relation to the road-safety-related traffic offences.

Article 6 of the CBE Directive refers to the reporting by Member States to the Commission of information such as the number of automated searches conducted by the Member State of the offence addressed to the national contact point of the Member State of registration, following offences committed on its territory, together with the type of offences for which requests were addressed and the number of failed requests.

Figure 8 Overall costs incurred on the EU28



Source: Estimates calculated based on the inputs received from RDW/NL (interview on 15.09.2015); EUCARIS Services, status per Member State as of 01.09.2013, 12.12.2014 and 08.10.2015 - non published documents provided by RDW/NL; Answers received to Q1.18 of 'Questionnaire addressed to Member States' authorities' and Q7 of 'Questionnaire on statistical data', desk research; 11.12.2015

Note: In 2013, a total of 24 EU Member States are concerned by EUCARIS/CBE development, support and maintenance costs (HR, DK, IE and UK not included); against 25 in 2014 and 2015 (DK, IE and UK not included) and 28 in 2016 and 2017.

In 2013, it was assumed that 14 Member States developed their national interface, 4 in 2014 (and 14 bearing the EUR 5,000 maintenance costs of the application), 3 in 2015 (and 18 bearing the EUR 5,000 maintenance costs of the application) and 7 in 2016 (and 21 bearing the EUR 5,000 maintenance costs of the application).

The costs related to the maintenance of the connection are based on the inputs provided by RDW/NL on the number of applications owned by each Member State between 2013 and 2015 and extrapolated for the subsequent years.

Taking into account that Country A clearly mentioned the high amount of time spent on administrative activities for fulfilling the reporting obligations stipulated in the CBE Directive and, considering that all EU Member States are equal in front of these obligations, the Contractor assumed that the administrative costs estimated by Country A were the same for all national contact points. The following estimates were therefore extrapolated to all EU Member States: EUR 27,500 the year of development of the EUCARIS/CBE application; and EUR 17,500 for each subsequent year, taking into account that 14 Member States developed their national interface in 2013, 4 in 2014, 3 in 2015 and 7 in 2016 (and 21 bearing the EUR 5,000 maintenance costs of the application).

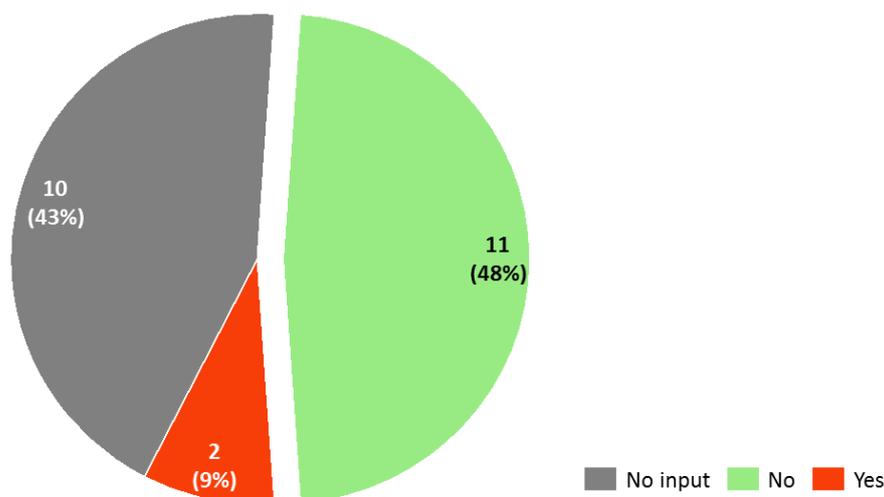
As displayed in Figure 8, overall, 2013 and 2016 are the two years with the highest costs for the EU28 since the implementation of the CBE Directive was respectively initiated by 14 and 7 countries in these years, against 4 and 3 in 2014 and 2015; and that, as demonstrated in the previous paragraphs, the first year of implementation generates the highest costs (compared to the subsequent years) in two cost categories: development and maintenance of the national interface (EUR 50,000 one-off cost in year 1 against EUR 5,000 for each subsequent year) and administrative costs (EUR 27,500 in year 1 against EUR 13,750 for each subsequent year). In 2017, the EUCARIS/CBE application should be or about to be operational in all EU Member States; therefore the costs related to year 1 do not apply.

More generally, Figure 8 shows that the highest costs for EU Member States are related to (i) the development and maintenance of their national interface to plug in the EUCARIS/CBE application and (ii) the time spent by national contact points and civil servants to perform the administrative activities required by the CBE Directive. Even though these figures are not estimated based on the full sample, they give a view on the share of each category of costs incurred to EU Member States by the CBE Directive.

While the development and maintenance of an interface allowing national registries to be connected to the EUCARIS/CBE application is a technical requirement to use the application (and can therefore not be avoided by EU Member States); one should reflect on how to improve the efficiency of the tools available to EU Member States for complying with the legal requirements (provisions included in Article 5 and Article 6 of the CBE Directive) that generate administrative activities for EU Member States, so as to create less burden on them.

On the other hand, as displayed in Figure 9, it appears that **the majority of the EU Member States do not consider as excessive the implementation costs of the software applications necessary to carry out the searches under the CBE Directive regime** (including the annual costs related to the development, support and maintenance of EUCARIS/CBE application and the maintenance of their connection to the application).

Figure 9 Do you consider these costs excessive?



Source: Answers received from the user groups of the EUCARIS/CBE application to Q1.19 of 'Questionnaire addressed to Member States' authorities'; 11.12.2015

In fact, out of the 13 answers received to this question, 15% only estimated these costs as excessive²⁶⁰ (2). While the current economic situation of one of these two countries might explain this answer, the other respondent nuanced that, considering the high usage made of the EUCARIS/CBE application in their country, its related costs can still be considered appropriate.

6.4.1.2 Costs related to follow-up procedures

Since the costs related to follow-up procedures have not been quantitatively estimated in the course of this Study, the Evaluation team used the estimates made during the impact assessment of the CBE Directive²⁶¹. In this regard, the enforcement costs estimated in the impact assessment for the policy option N°3, where the exchange of information is performed by linking national databases, were assessed at EUR 5m to 6.5m annually for the EU27²⁶². In fact, 120 to 160 officers were expected to be required for the specific purpose of the follow-up procedures for EU27.

When putting these costs in perspective with the costs related to the vehicle registration data, it appears that it is significantly more expensive for Member States to enforce sanctions than to get the necessary information allowing them to initiate follow-up proceedings (vehicle registration data). In fact, given the difference between the two types of costs, the costs of exchanging vehicle registration data becomes relatively insignificant.

6.4.2 Revenues generated by the enforcement of sanctions for road safety related traffic offences

In this section, the Evaluation primarily focused on the annual fine revenue generated by the implementation of the CBE Directive's provisions (Indicator N°28).

For this purpose, the Evaluation first analysed the number of successful searches coming out from the use of the application and then subtract to these the number of failed searches, so as to obtain the number of successful searches in each country, between 2013 and 2015. This information was asked in the "questionnaire on statistical data" (8 respondents) and by written requests (2 respondents), which both result in a total number of 10 answers. Out of these, six EU Member States were able to provide the data (60%), as displayed in Table 31. The other four countries (4) were not able to provide any data since they do not perform any searches with EUCARIS/CBE application.

Table 31 Successful automated searches performed using EUCARIS/CBE application

Number of failed automated searches (using EUCARIS/CBE application)								
2013			2014			2015		
Total	Number	Number of	Total	Number	Number of	Total	Number	Number of

²⁶⁰ It should be noted that the EUCARIS/CBE application is not yet operational in one of those countries.

²⁶¹ [SEC\(2008\) 351/2, Commission Staff Working document accompanying the 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} {SEC\(2008\) 350}, Brussels.](#)

²⁶² At the time of the impact assessment, HR was not yet part of the EU.

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Number of failed automated searches (using EUCARIS/CBE application)									
	2013			2014			2015		
	number of outgoing searches	of failed searches	successful automated searches	number of outgoing searches	of failed searches	successful automated searches	number of outgoing searches	of failed searches	successful automated searches
BE	57	2	55	168,562	2,776	165,786	1,44,834	1,207	1,43,627
FR	542,542	9,520	533,022	1,406,263	66,351	1,339,912	1,384,690	50,021	1,334,669
HR	-	-	-	-	-	-	1,396	951	445
HU	-	-	-	13,640	10,246	3,394	133,655	47,335	86,320
NL	-	-	-	-	-	-	575,607	132,390	443,217
PL	-	-	-	13,286	2,533	10,753	34,546	4,813	29,733

Source: Answers received to Q4 and Q5 of 'Questionnaire on statistical data'; Written requests; 11.12.2015

Note: The NL did not provide any information on the number of failed searches. However, based on the data collected for 2013 and 2014, the ratio of the number of automatically detected offences committed by BE and DE and the number of fines sent to BE and DE in 2013 and 2014 varied between 77% and 100%. In other words, the percentage of failed searches in 2013 and 2014 was comprised between 0% and 23%, when bilateral agreements were applicable with BE and DE and the EUCARIS/CBE application not yet used²⁶³.

In this context, and taking into account that the same countries remained in the scope of the searches (in addition to FR) the Evaluation team considers that the use of EUCARIS/CBE application has not significantly changed the rate of successful/ failed searches in 2015. The Evaluation team therefore assumed a rate of 23% failed searches in 2015, using EUCARIS/CBE application.

For most types of offences, the fine to be paid by offenders is fixed, e.g. the fine for not wearing a seat belt amounts to EUR 110 in Belgium. However, the amount of the fines related to speeding offences, drink-driving and driving under the influence of drugs varies depending on the level of speed, alcohol or drugs of the offender.

In order to estimate the revenues generated by the CBE Directive in general and the use of EUCARIS/CBE application in particular, two assumptions were made with regards to the average amount of a fine and its average payment rate.

First, taking into account that speeding offences represent the highest share of offences committed by non-resident offenders (please refer to Section 6.2.2), revenues were estimated based on the range of fines applied for speeding offences in the four above countries. In this regards, based on desk research²⁶⁴, the following ranges are considered when the speed limit is exceeded more than 21 km/h:

- Belgium: between EUR 105 and EUR 200
- Croatia: between EUR 15 and EUR 30
- France: EUR 135
- Hungary: EUR 120
- Netherlands: between EUR 121 and EUR 157
- Poland: EUR 48

Secondly, as highlighted by Belgium, the payment rate of the fines submitted to non-resident offenders is far from being 100%. In Belgium, the average payment rate is, for instance, 54%, as estimated during the stakeholder consultation (see Table 25).

²⁶³ The NL did not carry out any searches using the EUCARIS/CBE application between 7.11.2013 and 30.09.2014. However, data from the vehicle register was still exchanged with BE and DE, on the basis of bilateral agreements.

²⁶⁴ <http://www.speedingeurope.com/>

In order to have a valid estimate for each of the above countries, the Evaluation verified the delay of payment and the average payment rate of B2B invoices in Western and Eastern Europe, assuming that the same delay and rates would apply for the payment of traffic fines by non-resident offenders.

The validity of this assumption, which is meant to compensate the lack of data provided by EU Member States on the average payment rate of traffic fines by non-resident offenders, was confirmed by the estimates provided by BE and FR, i.e. two countries having provided estimates on that rate. While BE and FR respectively estimated the rate to be 54% and 50%, the average payment rate of B2B invoices in Western Europe stands at 52%, i.e. the average of the estimates provided by the two countries.

The results of this research²⁶⁵ demonstrated that:

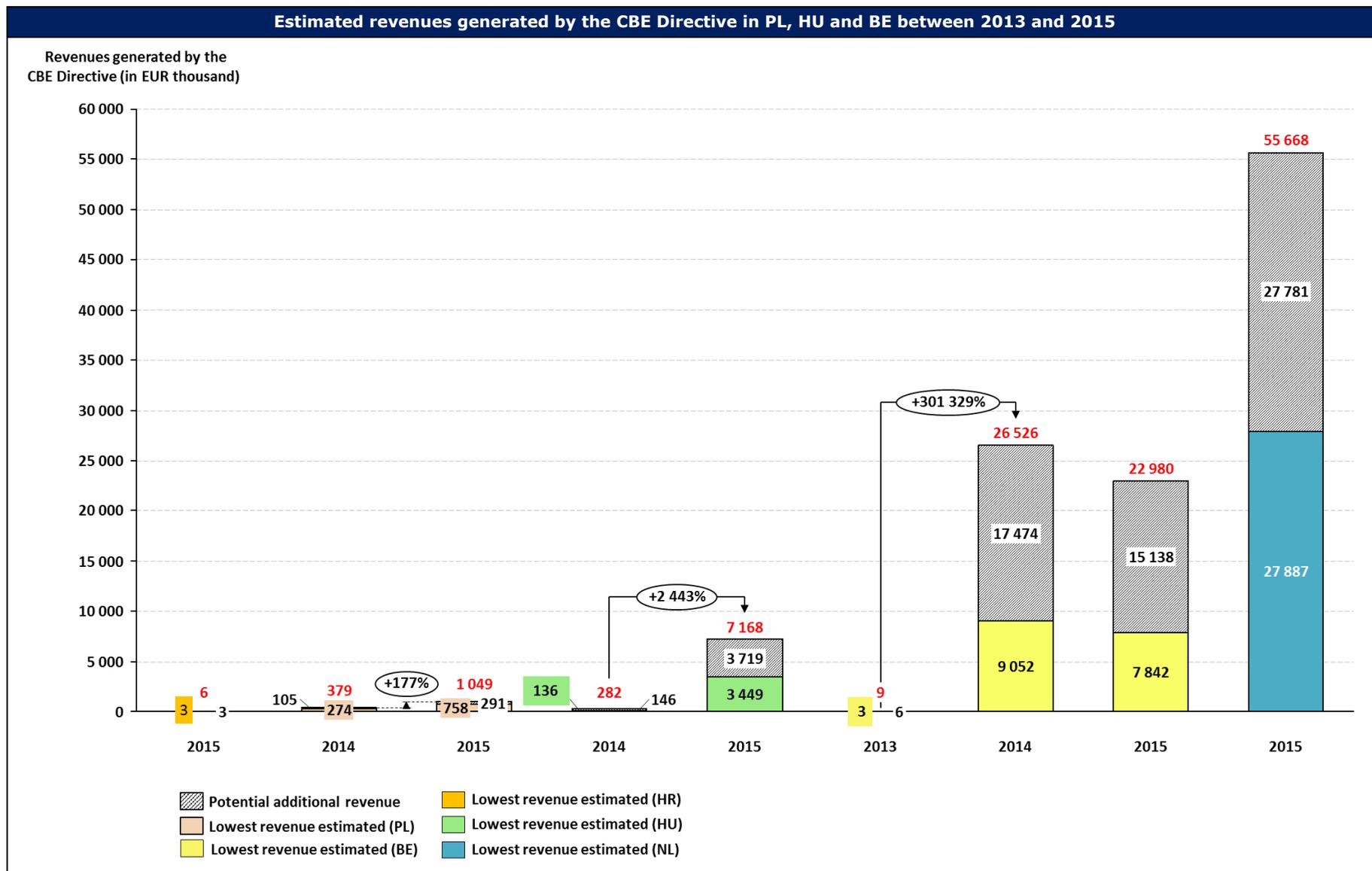
- For Western Europe, invoices are paid in 52% of the cases (B2B transactions) up to 30 days from the due date. This rate goes up to 80% up to 60 days from the due date.
- For Eastern Europe, invoices are paid in 50% of the cases (B2B transactions) up to 30 days from the due date. This rate goes up to 77.6% up to 60 days from the due date.
 - In the case of Poland specifically, invoices are paid in 53.1% of the cases (B2B transactions) up to 30 days from the due date. This rate goes up to 73.5% up to 60 days from the due date.
 - In the case of Hungary specifically, invoices are paid in 33.3% of the cases (B2B transactions) up to 30 days from the due date. This rate goes up to 69.2% up to 60 days from the due date.

Based on these estimates, the revenues generated by the CBE Directive for BE²⁶⁶, FR, HU and PL were estimated at their lowest level (lowest fine and payment up to 30 days from the due date) and at their highest level (highest fine and payment up to 60 days from the due date), as depicted in Table 32.

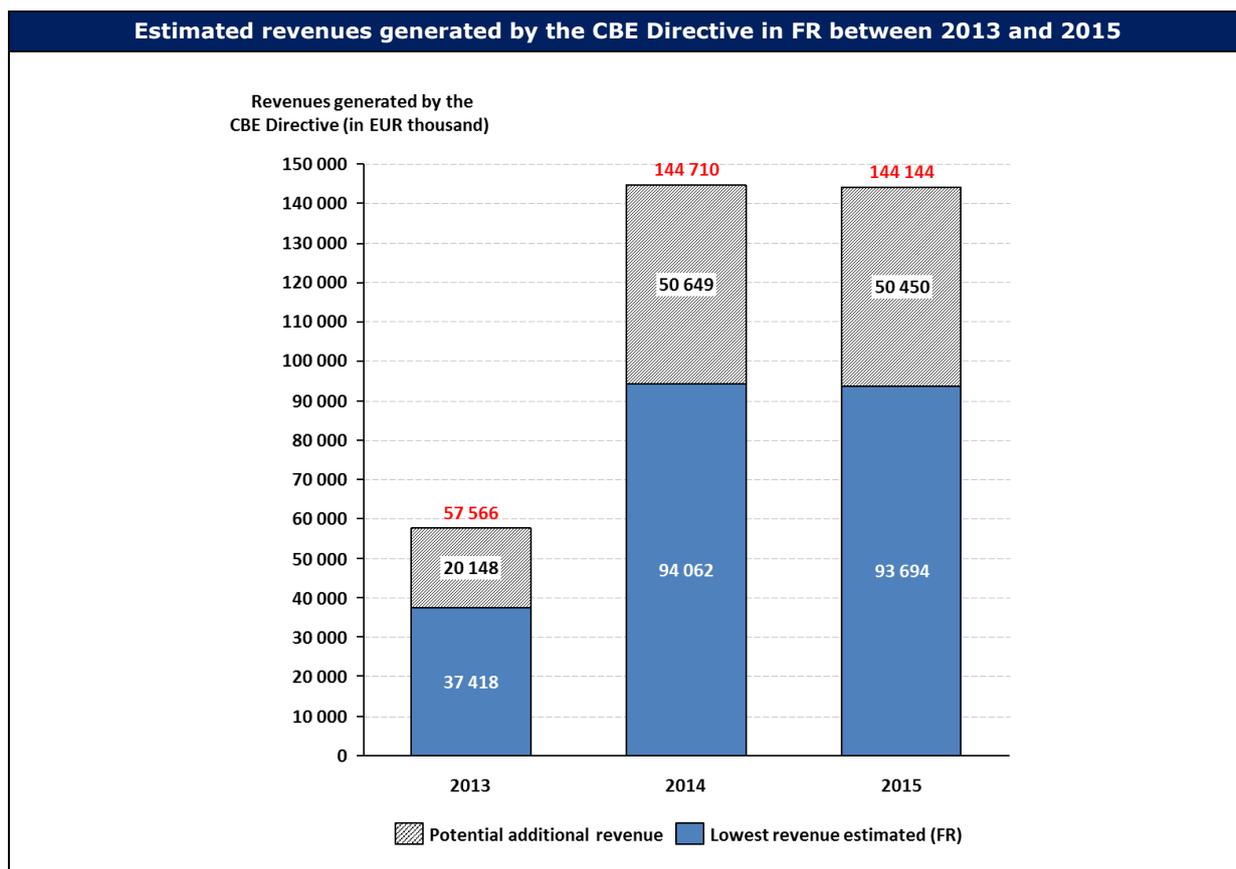
²⁶⁵ [Atradius Payment practices Barometer, International survey of B2B payment behavior, Survey results for Eastern Europe, Atradius, May 2015.](#)

²⁶⁶ The data reported for Belgium do not include the offences committed by French road traffic offenders since these have been performed the Vehicle Owner Holder service and also the Prüm service until December 2014.

Table 32 Estimated revenues generated by the CBE Directive between 2013 and 2015 in HR, PL, HU, BE, NL and FR



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Source: Answers received to Q4 and Q5 of 'Questionnaire on statistical data'; Written requests, 11.12.2015

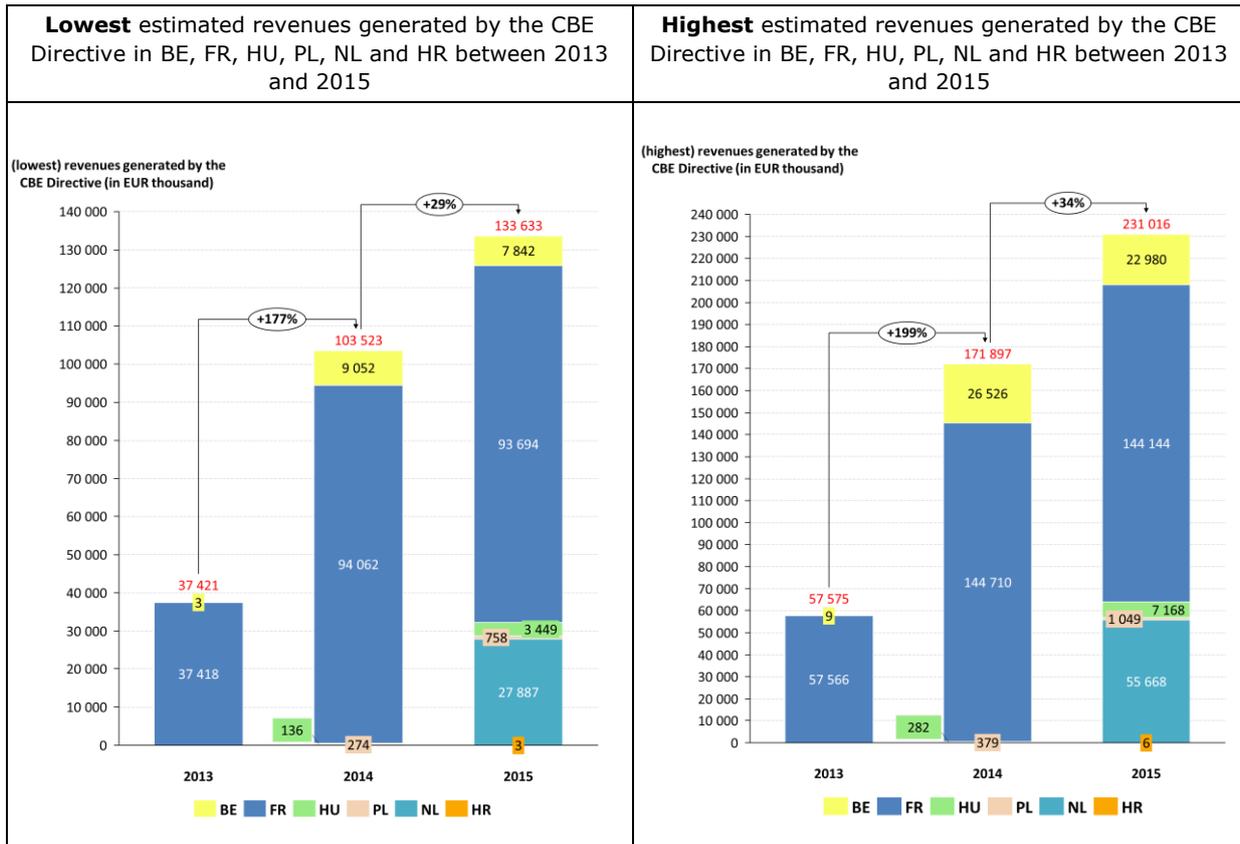
Notes: The percentages included in the graphs are related to the revenue growth from the first year of measurement to the second year. The maximum amount of revenues generated by the CBE Directive in these countries are highlighted in red. The revenues generated by BE do not take into account these related to the searches made on vehicles registered in FR since these were performed through the Vehicle Owner Holder service and also the Prüm service until December 2014.

Countries were grouped based on the level of revenues they generated with the CBE Directive. While on one side HR, HU, PL, BE and NL generated revenues up to EUR 56million, FR generated more than the double in 2014 and 2015 (i.e. EUR 145m).

As displayed in Table 32, in all six countries, the estimated revenues generated by the CBE Directive significantly increased between the first and the second year of use of the EUCARIS/CBE application for automated searches. While these almost tripled in France and Hungary between 2013 and 2014 and 2014 and 2015 respectively, they rocketed in BE and PL over the same years respectively.

Table 33 provides a consolidated view of the estimated revenues generated by the four countries and compares the lowest and highest ranges of revenues estimated by the Contractor.

Table 33 Estimated revenues generated by the CBE Directive (overall)



Source: Computation from Kurt Salmon based on the answers received to Q4 and Q5 of 'Questionnaire on statistical data'; Written requests; 11.12.2015

Based on the information provided by BE, FR, HU, PL, NL and HR, the revenues generated by the CBE Directive significantly increased between 2013 and 2014 (multiplied by more than 2.5) and overall slightly increased between 2014 and 2015 (2% increase). In fact, for HU and PL, the revenues significantly increased between 2014 and 2015, while these tend to rather decrease for FR and BE. No comparison can be made for NL and HR since data are only available for 2015.

It should also be noted that the revenues almost vary by up to 100% between the lowest and highest estimates; from EUR 37m to EUR 58m in 2013; from EUR 104m to EUR 172m in 2014; and from EUR 134m to EUR 231m in 2015.

While it could be argued that before the entry into force and implementation of the CBE Directive, the exchange of VRD data took place between some Member States already (and consequently revenues were generated accordingly), the following examples²⁶⁷ prove that the CBE Directive itself generate more revenues than costs:

- While the NL has bilateral agreements with BE and DE since the 1990s, additional searches have been carried out since Q4 2014 with the use of EUCARIS/CBE

²⁶⁷ To a lesser extent, while HR had bilateral agreements with AT, HU and SI, all the searches performed in other Member States using EUCARIS/CBE application can be entirely associated with the CBE Directive. This could generate revenues between EUR 1,094 and EUR 2,189 for HR in 2015.

The lowest revenue is estimated as follows: $152 \times 0.48 \times 15$; with a payment rate of 48% and a fine of EUR 15. On the other hand, the highest revenue is estimated as follows: $152 \times 0.48 \times 30$; with a payment rate of 48% and a fine of EUR 30.

application. In this regards, the revenues generated by the fines imposed on the owners of a vehicle registered in FR can be entirely associated with the CBE Directive (no bilateral agreement with FR). Taking into account that 76,819 searches were performed by the NL on French offenders in 2015, **the NL may have potentially made between EUR 3.7m and EUR 7.4m revenues²⁶⁸ by (only) enforcing sanctions on French road-traffic related traffic offenders in 2015.**

- While FR used to have bilateral agreement with BE and some regions of LU. It did not have any with IT, since the exchange of information between the two countries has only started recently on 1st January 2016. In this regards, FR expects to collect more than 400,000 fines sent to Italian residents in 2015. **This may represent revenues between EUR 28m and EUR 43m for FR in 2016²⁶⁹.**
- There was no international agreement in place before the entry into force of the CBE Directive in HU. As a result, **the above estimated revenues** (i.e. between EUR 0.1m and EUR 0.3m in 2014 and EUR 3.5m and EUR 7.1m in 2015) **can be entirely imputed to the CBE Directive.**

The same applies for PL for revenues between EUR 0.3m and EUR 0.4m in 2014 and EUR 0.8m and EUR 1m in 2015.

Based on the examples of NL, FR, HU and PL, the estimated revenues generated by the CBE Directive can be considered higher than the overall costs assessed for the EU28, even by focusing on the lowest estimates. The latter approach EUR 36m²⁷⁰ while the costs related to the implementation of the CBE Directive for the EU28, including the costs related to follow-up procedures, was estimated as having never been beyond EUR 7.8m over the last five years²⁷¹.

Caveat: The estimated revenues generated by the CBE Directive for FR, HU, PL and NL were calculated based on a series of assumptions, e.g. on the amount of the fines, payment rate. These estimates may not correspond to the actual revenues generated by these countries in the context of the CBE Directive.

Additional economic benefits should also be highlighted in this section. Considering that the CBE Directive has generally had a positive impact on the number of fatalities and accidents on EU roads when these were caused by/involving non-resident offenders (see Section 6.3), the economic benefits resulting from a reduction in the number of traffic accidents should indeed be considered.

²⁶⁸ The lowest revenue is estimated as follows: $76,819 \times 0.77 \times 0.52 \times 121$; with a search success rate of 77% (or failure rate of 23%), a payment rate of 52% and a fine of EUR 121. On the other hand, the highest revenue is estimated as follows: $76,819 \times 0.77 \times 0.52 \times 121$; with a search success rate of 77% (or failure rate of 23%), a payment rate of 80% and a fine of EUR 157.

²⁶⁹ The lowest revenue is estimated as follows: $400,000 \times 0.52 \times 135$; with a payment rate of 52% and a fine of EUR 135. On the other hand, the highest revenue is estimated as follows: $400,000 \times 0.8 \times 135$; with a payment rate of 80% and a fine of EUR 135.

²⁷⁰ This is the sum of the lowest estimated revenues for NL (EUR 3.7m); FR (EUR 28m), HU (EUR 3.5m) and PL (EUR 0.8m).

²⁷¹ This number corresponds to the sum of the highest estimated costs for the exchange of VRD (EUR 1.3m in 2013) and for the follow-up procedures (up to EUR 6.5m annually).

In this regard, a better enforcement by EU Member States of the sanctions related to traffic offences committed by non-resident offenders should indirectly influence non-resident drivers' behaviour and result in less personal and material damage (e.g. medical costs, loss of production, congestion costs, and immaterial costs).

While spillover effects are difficult to monetise, the European Transport Safety Council estimated that the monetary value for 2014 of the human losses avoided by preventing one road fatality was EUR 1.94m at factor cost²⁷².

6.4.3 Alternative mechanisms to exchange vehicle registration data

The Evaluation team identified three alternative mechanisms for the exchange of VRD: (i) an **EU database on VRD**; (ii) an EU Directive foreseeing that the **enforcement of sanctions is carried out by the Member State where the vehicle is registered**; and (iii) **joint road traffic enforcement operations**. Each of these three mechanisms is further described in this section and put into perspective with the mechanism currently in place for the exchange of VRD.

From a purely theoretical standpoint, a first alternative mechanism to VRD exchange foreseen by the CBE Directive could be an **EU database on VRD**.

Such a system would likely allow achieving the same results as the CBE Directive as it would allow the Member State of the offence to identify the owner of the vehicle and to issue a fine. However, such an alternative may pose technical and legal challenges for the following reasons.

First, based on the inputs received from the consulted stakeholders²⁷³, implementing an EU database on VRD would require the **harmonisation of the formats used by Member States to keep VRD**.

In addition to the technical hurdle that this may create for Member States, implementing an EU database on VRD would also bring a legal issue regarding the **responsibility for keeping such a registry up-to-date**.

Moreover, the creation of a single database would likely result in **implementation delays** since it implies the integration of the data from all Member States before any effective functioning of the system. The existing system, on the other hand, allows those Member States connected to EUCARIS to exchange data, at best bilaterally, at worst unilaterally, even though EUCARIS/CBE application is not operational for all. In this regard, a Member State that has not implemented the EUCARIS/CBE application does not prevent the system from functioning and the other Member States from exchanging data among them.

A second possible alternative, identified in the Impact Assessment to the CBE Directive, is an **EU Directive that would foresee the enforcement of sanctions by the State where the vehicle is registered**.

This alternative would however pose legal challenges since it implies the adoption of measures on the **mutual recognition of evidence**. Additionally, due to the **link between liability rules and constitutional principles**, it is likely that the authorities

²⁷² [Ranking EU progress on road safety, 9th Road Safety Performance Index Report, European Transport Safety Council, June 2015](#)

²⁷³ Opinion provided by Dutch Ministry of Justice.

of many Member States would not be able to impose fines on their residents for offences committed in another Member State.

Translation issues would also be a major problem and cost, most likely higher than the one under the CBE Directive. The enforcement authorities of the State of residence of the offender would indeed be put in the position of enforcing an offence committed in another Member State and in some cases of bringing a case before a competent Court to issue a fine. This implies that the Member State of the offence would translate more documents than a simple information letter as it occurs in relation to the CBE Directive, e.g. all the evidence in order to allow the enforcement authorities of the State of residence to issue a fine for an offence that they have not detected under their legal order.

In the light of all the above, in particular the complexity for a State of residence to issue and enforce a fine for a road traffic offence committed in another Member State, less offences are expected to be followed-up and enforced under this second alternative mechanism. If less offences are followed-up and enforced, drivers will not be encouraged to change their behaviours on the road (e.g. speeding offences), which puts at risk the ultimate objective of the CBE Directive: ensuring a high level of protection for all road users in the Union.

A third alternative to the CBE Directive could be the **organisation and funding of joint road traffic enforcement operations**, such as the ones carried out within the TISPOL STRIDER Project. The latter indeed brings together the road traffic police of 28 European TISPOL member countries and the Road Policing Services of Norway, Switzerland and Serbia, in order to carry out pan-European Enforcement operations with particular emphasis on those offences identified in the CBE Directive and to raise awareness of EU citizens on road safety related issues²⁷⁴ (more information on the TISPOL STRIDER Project can be found in Section 6.1.7).

Such actions, in particular if carried out at the border between two Member States have the potential to detect a **high number of offences in a relatively short period of time**. In addition, the **deterrent effect** of being stopped by the police of more Member States, including the one of the State of residence, might have a higher impact on compliance than the deployment of other tools. In this regard, the Evaluation team found that such operations might be fully complementary with the CBE Directive.

Having said that, it should be noted that such operations could not replace the CBE Directive, the latter being a tool that mainly facilitates the enforcement of offences detected **automatically** and committed by **non-residents** in all EU territory. Enforcement actions involving the intervention of enforcement authorities from more Member States have not the potential to cover a wide territory and need to be limited to a certain period of time due to the cost of deploying officers, normally police officers, and to the fact that resources allocated to speed enforcement are detracted from other enforcement tasks.

A more targeted (technical) alternative could be to replace EUCARIS/CBE application by another system. However, as demonstrated in Section 6.2.7 based on a comparative analysis of EUCARIS/CBE, RESPER and ERRU applications, it appears that **the Total Cost of Ownership of EUCARIS/CBE application for the period 2013 – 2016 is the lowest, in comparison with ERRU and RESPER**. This alternative is therefore not considered by the Evaluation team.

²⁷⁴ This list of actions is not exhaustive. More information can be found on the TISPOL STRIDER Project at <https://www.tispol.org/strider>

To conclude, none of the above proposed alternatives seems to provide the same level of enforcement as the CBE Directive, or at least not at the same cost or not serving the final objective of the CBE Directive, which is to ensure a high level of protection for all road users in the Union.

Furthermore, and in any case, as mentioned in Section 6.4.1.2, the main costs of the implementation of the CBE Directive for Member States are not related to the exchange of vehicle registration data but rather to the follow-up procedures. In this regards, whatever alternative mechanism would potentially be selected to replace the CBE Directive, the costs to enforce sanctions cannot be avoided or reduced by any of them.

6.4.4 Conclusions

Based on the above findings, the Evaluation considers the CBE Directive as efficient. Not only do the economic benefits generated by the CBE Directive prevail over the costs incurred on EU Member States to implement the legislation, but it seems that no other alternative to the CBE Directive would provide the same level of enforcement, while achieving the same benefits at less cost (or greater benefits at the same cost).

Even though the estimates of the costs and revenues are based on a limited set of countries and on a series of assumptions, extrapolated to the 28 EU Member States, **the Evaluation considers that the EUCARIS/CBE application is cost effective** since the costs involved in the cross-border exchange of data and follow-up procedures, including administrative costs, are estimated to be insignificant in comparison with the short-term economic benefits that may be generated from searches; and that the total cost of ownership of the other systems analysed in Section 6.2.7 (i.e. RESPER and ERRU) is higher than the one related to EUCARIS/CBE application for the period 2013-2016, without providing higher benefits.

With regards to the costs related to the exchange of vehicle registration data, the highest costs for EU Member States are related to (i) the development and maintenance of their national interface to plug in the EUCARIS/CBE application and (ii) the time spent by national contact points and civil servants to perform the administrative activities required by the CBE Directive. In this regards, the main administrative activities incurred on EU Member States for the purpose of the CBE Directive tend to be related, to a large extent, to the reporting of EU Member States to the Commission.

Based on the estimates made during the impact assessment of the CBE Directive²⁷⁵, **the costs related to the exchange of vehicle registration data can however be considered as insignificant in comparison to the costs related to follow-up procedures.** When putting these costs in perspective, it indeed appears that it is significantly more expensive for Member States to enforce sanctions (EUR 5m to 6.5m annually for the EU 27²⁷⁶) than to get the necessary information allowing them to initiate follow-up proceedings (highest yearly costs for the period 2013-2017 estimated at EUR 1.3m for the EU28 for the exchange of vehicle registration data).

²⁷⁵ [SEC\(2008\) 351/2, Commission Staff Working document accompanying the 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} {SEC\(2008\) 350}, Brussels.](#)

²⁷⁶ At the time of the impact assessment, HR was not yet part of the EU.

In any case, even though the Contractor has not gathered any data on the financial revenues related to the cross-border enforcement of road traffic offences before the entry into force of the CBE Directive, the estimates show that **the revenues specifically generated by the CBE Directive for FR, HU, PL and NL are already higher than the overall costs assessed for the EU28 to implement the latter Directive.** The latter revenues would indeed approach EUR 36m²⁷⁷ while the costs related to the implementation of the CBE Directive for the EU28, including the costs related to follow-up procedures, was estimated as having never been beyond EUR 7.8m over the last five years.

Also, beside the difficulty to quantify the impact of the CBE Directive in terms of lives saved, based on the estimates of the European Transport Safety Council, it appears that, **from the moment when the CBE Directive has proved to prevent at least four more road fatalities in the EU²⁷⁸ than before its adoption, the economic benefits related to the CBE Directive would counterbalance its related costs.**

When comparing the existing situation with three alternative mechanisms for the exchange of VRD: (i) an EU database on VRD; (ii) an EU Directive foreseeing that the enforcement of sanctions is carried out by the Member State where the vehicle is registered; and (iii) joint road traffic enforcement operations; **the Evaluation team considers that no alternative mechanism would provide the same level of enforcement as the CBE Directive**, while achieving the same benefits at less cost (or greater benefits at the same cost).

It is indeed expected to be too costly for Member States to solve the technical (e.g. harmonisation of the data formats, integration of all EU Member States data in a single repository), legal (e.g. responsibility to update a single registry, mutual recognition of evidence) and operational (e.g. translation of the evidence related to an offence) issues that the implementation of the two first alternative mechanisms would raise; while the third alternative could not replace but rather complement the existing CBE Directive. It should also be added that the costs related to the follow-up procedures, which are the most significant ones for EU Member States, as previously demonstrated, would still apply if any of these mechanisms were put in place.

A more targeted (technical) alternative could be to replace EUCARIS/CBE application by another system. However, based on the results from Section 6.2.7, **EUCARIS/CBE application presents the lowest Total Cost of Ownership (TCO)²⁷⁹**, in comparison with two other systems with similar business purpose and characteristics (ERRU and RESPER). While the TCO of the EUCARIS/CBE application was estimated to amount EUR 0.366m between 2013 and 2016, it was estimated to reach EUR 1.448m and EUR 1.83m respectively for ERRU and RESPER over the same period.

As a result of the cost-effectiveness of the EUCARIS/CBE application and taking into account that none of the proposed alternative mechanisms would be able to provide the

²⁷⁷ This is the sum of the lowest estimated revenues for NL (EUR 3.7m); FR (EUR 28m), HU (EUR 3.5m) and PL (EUR 0.8m).

²⁷⁸ The European Transport Safety Council estimated that the monetary value for 2014 of the human losses avoided by preventing one road fatality was EUR 1.94m at factor cost. In this regards, four lives saved thanks to the implementation of the CBE Directive would be valued at EUR 7.76m which is equivalent to the highest cost estimates made.

²⁷⁹ The TCO of an information system defines the total estimated cost to develop the system, to put it into production, to operate it, to support it, to maintain it, to phase it out at the end.

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same level of enforcement as the CBE Directive, or at least not at the same cost or not serving the final objective of the CBE Directive, which is to ensure a high level of protection for all road users in the Union; **the Evaluation team concludes that the CBE Directive is efficient.**

6.5 Improvement of the effectiveness of the CBE Directive

Our analysis identified existing problems with the cross-border enforcement of sanctions for road traffic offences that should be addressed in order to improve it. It also assessed how the existence of different systems for the automated enforcement of road traffic rules might affect the implementation of the CBE Directive (6.1).

This Section identifies which initiatives would be appropriate in order to improve the effectiveness of the CBE Directive.

The following paragraphs discuss the findings of the analysis addressing a possible widening of the scope of the CBE Directive.

They also discuss ways to improve the impact of the CBE Directive by means of soft law measures, such as guidelines.

Finally, they identify the possible scenarios for the improvement of cross-border enforcement of sanctions for road traffic offences. Beforehand, the analysis assesses, whether, in order to improve the cross-border enforcement of road traffic rules, it is necessary to harmonize road traffic rules at the EU level and excludes the need for such legislative action based on the main argument that such action would not be strictly necessary to address pending cross-border enforcement issues. This will be detailed below.

6.5.1 *The need to extend or reduce the scope of the CBE Directive*

While on one hand, 6 Member States' authorities did not see the need to expand the list of offences covered by the CBE Directive, on the other hand, 13 welcomed the addition of other offences to the scope of the CBE Directive. Not all 13 Member States mentioned the same offences, however 9 Member States mentioned at least one of the following offences: not keeping sufficient distance with the vehicle in front, dangerous overtaking and dangerous and illegal parking. Moreover, two NGOs also fostered the addition of at least one of the abovementioned offences. The positions of national authorities varied from the opinion that the CBE Directive's scope should be expanded to include all traffic offences (Croatia) to a minimalist approach favoured by Slovenia according to which the scope CBE Directive should remain the same.

In addition, the Commission informed the Evaluation team that two stakeholders (who participated to the European Commission public consultation on the Evaluation of Directive 2015/413/EU facilitating cross-border exchange of information on road-safety-related traffic offences²⁸⁰) identified as offences that the scope of the CBE Directive should include offences related to failure to pay the toll for the use of road infrastructures.

As anticipated, the most frequently mentioned offences that could perhaps be detected automatically or without stopping a vehicle are:

- Failure to keep a safe distance with vehicle in front

²⁸⁰ See http://ec.europa.eu/transport/road_safety/take-part/public-consultations/cbe_eval_en.htm. The Consultation was opened in the period 27/11/2015 - 19/02/2016.

- Dangerous parking, i.e. parking in a way that puts in danger other road users²⁸¹.
- Dangerous overtaking.

In addition, a minority of stakeholders, i.e. two on top of 43 consulted by the Evaluation team, identified also tolling offences as offences that should be covered by the CBE Directive to the extent that they have an indirect impact on road safety.

This Evaluation could not, however, gather figures on the number of offences committed by non-residents not covered by the CBE Directive and which are likely to pose a major threat to road safety.

Indeed, neither Member States nor stakeholders provided relevant figures on the above identified road traffic offences allowing concluding that foreign drivers are more likely to commit such offences than resident drivers (Indicator N° 20). The only Member States that provided data are Latvia and Belgium. Based on the information provided, the number of all offences not covered by the Directive and involving non-residents is around 5,000 on an annual basis in Latvia and account to around 3% of all offences. In Belgium, offences related to not keeping a safe distance committed by non-residents represented 18% of all offences (2014), while dangerous overtaking offences committed by non-residents represented 39% of all offences (2014). Such offences represent less than 20% all of offences committed by non-residents in Belgium, since 80% of the offences committed by non-residents are covered by the CBE Directive (Indicator N° 20).

As to tolling offences, this Evaluation did not gather sufficient evidence confirming that such offences are more likely to be committed by non-residents. In addition, the Team notes that the CBE Directive covers offences that pose a direct threat to road safety, while the link between tolling offences and road safety is indirect (i.e. the likelihood that a tolling offender commits another offence in order to avoid paying the toll). Thus, the Team has doubts as to whether including such offences in the scope of the Directive could affect the consistency of the Directive.

Against this background, this Evaluation concludes that there is no sufficient evidence allowing for the conclusion that further offences should be added to the scope of the CBE Directive.

In addition, the analysis carried out by the Team found out that the offences identified by stakeholders as offences that should be covered by the CBE Directive such as dangerous overtaking, dangerous parking and not keeping a safe distance with vehicle in front are not detected automatically in many Member States of the EU.

This implies that dangerous overtaking and not keeping a safe distance can, in general, be detected by police forces which have either the right or the obligation²⁸² to stop the vehicle and identify the driver when they detect the offence. While with regards to dangerous parking, police forces have the possibility, when they detect such offence, to remove the vehicle and to confiscate it, conditioning the restitution to the payment of the fine.

The above findings did not allow the Team to conclude that extending the scope of the CBE Directive to such offences could give a substantial added value in the short term.

²⁸¹ The offence of dangerous parking should be distinguished from parking offences consisting in incorrect parking and/or non-payment of parking fees/taxes.

²⁸² In some Member States such as Italy enforcement authorities are required to notify a road infringement on the spot. Exceptions are foreseen, such as the situation when an offence is detected automatically.

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A long term perspective may lead to a different conclusion, as an increased use of automatic checking equipment to detect offences not covered by the CBE Directive may trigger the need for the inclusion of such offences within the scope of the CBE Directive, in order to ensure equal treatment of road users.

In conclusion, this Evaluation considers that although it may, in theory, be beneficial to extend the scope of the CBE Directive to the above-identified offences, there are doubts as to whether this would be useful in the short term (Indicator N° 19).

The above conclusion is in line with the position of many stakeholders who agreed that the scope of the CBE Directive is appropriate (Indicator N° 18) (FR, EE, HU, PL, SI) and does not contradict the position of the other stakeholders that replied that they either did not have an opinion on this issue or that the issue needs to be further assessed (LU, RO, LV).

This conclusion is not fully in line with the position of the following Member States: AT, BE, CZ, CY, DE, EL, ES, HL, LT, NL, SE and SK.

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The Evaluation team assessed also whether there is a need to reduce the scope of the Directive. On this respect, some stakeholders highlighted that some of the offences covered by the CBE Directive can only be detected if the vehicle is stopped and once the driver is identified (especially drink-driving and driving under the influence of drugs)²⁸³. Thus, from a purely practical point of view, these offences should probably not be included in the CBE Directive if it were to be amended. However, the Evaluation team identified also a political counter-argument as the removal of these offences from the scope of the CBE Directive would send a negative signal. In addition, the Team concluded that the fact that such offences are included in the scope of the Directive does not compromise its implementation.

Thus, reducing the scope of the Directive does not appear to be strictly necessary in order to ensure its better functioning.

²⁸³ E.g. AT, HU, FR.

6.5.2 Proposal for road safety guidelines

The analysis carried out in Section 6.1 found that, in order to ensure that the impact on cross-border enforcement of the CBE Directive is not affected by issues related to the mutual recognition of sanctions imposed for road traffic offences detected automatically, it would be beneficial to ensure a certain convergence of standards and methods for automatic checking equipment in the long term. Such convergence could be ensured by soft law measures and thus by EU guidelines. Should recourse to soft law not ensure a certain appropriate level of convergence, the necessity harmonization of standards for automatic checking equipment at the EU level should be assessed by the EU legislator. This should be done if, in the future, once the CBE Directive is implemented by all Member States, a legal analysis of the case law on mutual of financial penalties for road traffic offences should demonstrate that Member States' courts refuse to recognize penalties for road traffic offences imposed by other Member States invoking the fact that the automatic checking equipment used in other Member States is not reliable for reasons that might relate to lack of type-approval procedures, or to lack of periodical verification. That said, at this stage the EU could recommend Member States to ensure that their systems for the automatic enforcement of road traffic rules are compliant with some basic principles and notably the principles of legality, reliability, accuracy, utility and traceability. In addition, the Evaluation team drafted a proposal for EU road safety guidelines whose text is included in the paragraphs below. Such proposal may be used as the basis for the future development of road safety guidelines.

Introduction

Research has shown that adequate enforcement of traffic rules has a substantial impact on road safety.

The use of automatic checking equipment, in general, and the use of speed cameras, in particular, can foster a reduction of approximately 15-20%²⁸⁴ in personal injury crashes on road sections monitored by cameras.

This impact is linked to the deterrent effect of such equipment and to its impact on road users' behaviours.

The products of such equipment (typically images) are used by Member States' enforcement authorities as probatory evidence that allows them to impose financial penalties and other penalties subject to a scrutiny of national courts.

In this context, ensuring that evidence produced by automatic checking equipment is accepted in court proceedings and that the used enforcement methods are accepted by road users is crucial and should be an important element of EU Member States' enforcement practices and strategies. Notably, road users should perceive automatic enforcement as fair.

Thus, an increased recourse to automatic checking equipment used to detect traffic offences, in general, and speeding, in particular, should be accompanied by clear and transparent rules on the legitimate use of such equipment as well as on its reliability and accuracy.

²⁸⁴ SafetyNet (2009) Speed Enforcement: "The best estimate is that automatic camera enforcement results in a crash reduction of 15 to 20%" quoting the Elvik, R.& Vaa, T. (2004) The Handbook of Road Safety Measures. NY, Amsterdam, Elsevier Science. See also Speed Cameras as a Tool to Reduce Road Fatalities Prepared by Misty A. Boos, May 2009. <http://vtrc.virginia.gov/rsb/rsb23.pdf>

It should also be accompanied by information campaigns and actions aimed at ensuring that road users are aware of the fact that certain roads' fragments are monitored, in order to achieve the desired effect on road users' behaviours.

Member States' legislation and practices related to the use of automatic equipment also diverge substantially, with some Member States intensely recurring to automatic checking equipment and others recurring rarely or not at all for the detection of offences such as speeding, failing to stop at a red light and use of forbidden lane.

Overall, this legal and factual situation affects the consistency of road traffic rules' enforcement in the EU and might compromise the application of the principle of mutual recognition to financial penalties for road traffic offences for offences that are detected automatically.

In this context, Member States are recommended to clarify in the relevant primary or secondary legislation the typology of equipment that can be used for detecting each kind of offence. They should also specify to what extent the evidence collected by means of such devices can be used as evidence in judicial proceedings.

Secondly, Member States are recommended to:

I. Adopt clear and transparent type approval procedures for automatic equipment used to detect road traffic offences in order to ensure that the devices used to detect road traffic offences are reliable and accurate.

II. Ensure that their enforcement methods/practices comply with the principle of utility.

Type approval procedures and related rules ensuring the reliability and accuracy of automatic devices used to detect road traffic offences

Member States are recommended to adopt rules that specify the eligibility general requirements for type approval, operational requirements, constructional requirements and performance requirements that a device has to fulfil to be type approved.

Provisions on general requirements should foresee that:

- The model type shall be indelibly marked on the outside of the meter, together with a serial number which shall be unique to that instrument.
- Once type approval has been granted, the equipment cannot be modified without previous authorization of the competent authority.
- Devices to measure speed have to be calibrated annually by authorized bodies, which should use equipment that is certified annually by a competent body with equipment traceable to applicable standards.

Provisions on operational requirements should concern at least:

- The camera's angle of view.
- The information that every image of the offence shall show, in addition to the speeding vehicle, such as the date and the time of the detection and the location.
- The way speedometers shall be set in order to enforce variable speed limits.

Provisions on constructional requirements should specify requirements for components of the equipment and on the functioning of the equipment when specific disturbances related to power supply occur.

Provisions on performance requirements should concern at least:

- a) The capacity of the device to store data in adverse conditions.
- b) Its robustness and in particular the compliance of the parts of the equipment which may be exposed to adverse weather conditions with the requirements of accepted standards for water and dust protection.
- c) Its electromagnetic immunity and response to electrostatic discharge.
- d) Its measuring accuracy, specifying the allowed positive and negative error.
- e) The timing accuracy of the camera.

Member States are recommended to lay down specific rules on type approval procedures that should consist in a number of technical performance tests, which should be carried out on a single production model of the type of equipment offered for approval by the manufacturer.

The testing should be carried out by an independent testing laboratory.

Member States are recommended to foresee that devices used to detect road traffic offences undergo, in addition to an initial verification control, periodic controls, on a yearly basis, and extraordinary inspections/verification procedures further to events that require the equipment to be repaired.

Effective and useful enforcement methods and practices

In order to ensure an effective enforcement of road traffic rules, Member States are recommended to:

1. Foresee that devices and in particular speed control devices are installed in sites selected through a specific assessment consisting at least of an analysis of collision data over a minimum period of 3 up to 5 years, of the number of speeding offences detected, but also of aspects such as visibility. Red-light cameras should be installed at traffic-light junctions where collisions are recorded because of vehicles failing to comply with a traffic light.
2. Foresee, in the process for the selection of the above sites, the consultation of the stakeholders involved in road safety (i.e. local authorities, police, road owners) and an assessment of the extent to which the speed limit is appropriate and therefore enforceable.
3. Promote the use, where possible and appropriate, of devices that can differentiate between different types of vehicles, typically lorries and cars.
4. Promote the use of devices that can detect offences committed on all lanes, or at least on the most dangerous ones.
5. Allow the use of devices that can take pictures of the plates of motorbikes (i.e. take pictures from the back and have the necessary level of accuracy to allow recognizing the plate of a motorbike).

6. Promote, to the extent possible, the application of both distant and instant measurement methods for the detection of speeding offences depending on the features of the fragment of road that should be monitored.
7. Promote the installation of section control devices on motorways, highways, dangerous roads and other roads where the use of such equipment is deemed appropriate further to a case-by-case assessment of the level of danger on a specific road.
8. Foresee the obligation to signalize that speed cameras are installed on a road in order to ensure that the installation of automatic checking equipment has a deterrent effect and is perceived by road users as a fair enforcement tool.
9. Ensure that the speed limit signs and other information signs are readable and are correctly positioned in the vicinity of each measuring station. In addition, the deployment of safety cameras in an area should be communicated adequately to road users.
10. Allow the use of evidence collected through speed cameras and other devices and that capture the image of the driver to be used as evidence of seat-belt infringements, where applicable.
11. Adopt specific campaigns for the enforcement of the obligation to wear a seatbelt, set targets concerning the number of controls to be carried and adopt appropriate sanctions.
12. Require that the enforcement of rules against drink-driving is carried out through random checks in the proximity of events/places where people drink and through targeted operations using calibrated breath tests and evidential breath test devices when enforcement authorities deem it appropriate and suspect that the road user has been drinking.
13. Foresee annual or bi-annual evaluations of enforcement activities and in particular of the impact of speed cameras installed on each monitored segment of roads. Data on the relevant typology of offence and of road collisions should also be gathered.

6.5.3 Improvement of the effectiveness of cross-border enforcement

6.5.3.1 The need to harmonize road traffic rules

This Evaluation identified in Section 6.1 factors that still obstruct the enforcement of sanctions against non-resident drivers and which are not addressed by the Directive nor by other existing EU legal tools, such as the Framework Decision on the application of the principle of mutual recognition to financial penalties.

As explained in Section 6.1 the different features of MS' regimes of liability for road traffic offences might prevent an effective application of the CBE Directive in all Member States. The main obstacle, stemming from the existence of different liability regimes, is the rule requiring the identification of the driver as a precondition for the issue of a fine. This rule prevents enforcement authorities of some Member States from issuing fines against non-residents if they cannot identify the driver of the offending vehicle.

In addition, different procedures for road traffic offences could prevent the application of the principle of mutual recognition to financial penalties for road traffic offences, because sanctions for road traffic offences imposed in one Member State are not recognized in another Member States. Indeed, mutual recognition might be prevented under EU law when the decision imposing a financial penalty for an offence was adopted in a proceeding that does not meet specific EU legal standards (see Section 6.1).

Against this background, this Evaluation has assessed whether the harmonization of road traffic rules is a pre-condition to ensure that financial penalties for road traffic offences are enforced against non-residents.

This analysis was based on the input provided by stakeholders as well as on a legal analysis of the problems that still affect the cross-border enforcement of road traffic rules.

The findings of our consultation did not allow for the conclusion that the harmonization of road traffic rules is necessary in order to improve the effectiveness of the CBE Directive and to ensure the cross-border enforcement of sanctions. Indeed, only a minority of the stakeholders consulted – 4 out of 43 - suggested the need for harmonization of road traffic rules in order to ensure an effective cross-border enforcement of road traffic rules.

All the other consulted stakeholders which had an opinion on how to improve the cross-border enforcement of road traffic rules (12 stakeholders), suggested, instead, to adopt tailored EU mechanisms ensuring the cooperation of Member States' enforcement authorities in investigations concerning road traffic offences and a fast and non-bureaucratic EU measure ensuring the mutual recognition of financial penalties for road traffic offences.

Moreover, an analysis of the problems affecting the cross-border enforcement of sanctions for road traffic offences allowed the Team to conclude that the identified problems could be overcome by adopting tailored cooperation mechanisms requiring Member States to cooperate in investigations concerning road traffic offences, and notably to assist each other in investigations aimed at identifying the driver of an offending vehicle.

In addition, identified issues concerning the cross-border execution of penalties for road traffic offences could be addressed through the adoption of a tailored mutual recognition measure that ensures EU-wide recognition of sanctions for road traffic offences imposed in one Member States when specific conditions are met, i.e. provided that some minimum procedural standards that are proportionate to the severity of the sanctions imposed for road traffic offences, are granted in proceedings concerning road traffic offences (so called "fast track mutual recognition").

In light of all the above, the analysis concluded that the harmonization of road traffic rules at the EU level would not be strictly necessary in order to ensure an effective functioning of cross-border enforcement of road traffic rules. Indeed, the identified problems can be addressed by less far-reaching and less controversial EU measures.

However, the Team also concluded that it cannot be excluded that the approximation at the EU level of procedural standards in proceedings concerning road traffic offences might become necessary, in order to adopt an EU measure introducing a fast track mutual recognition mechanism.

Indeed, it is relevant to point out that the application of the principle of mutual recognition to financial penalties is limited by the respect of fundamental rights such as the right to an effective remedy and to a fair trial, the presumption of innocence and the right to be heard. An EU measure that would not take into account of these principles and of the limits they set on the application of the principle of mutual recognition to penalties would probably be declared void by the Court of Justice.

In this context, a way to ensure that the European Court of Justice accepts a fast track mutual recognition would be to carry out a detailed legal assessment directed at evaluating the administrative or criminal procedures applicable in different Member States for the review of sanctions inflicted for road traffic offences. This should assess to what extent such standards are equivalent and comply with the principles enshrined in the EU Charter, interpreted, in the light of the principle of proportionality, while bearing in mind that penalties for road traffic offences are not custodial measures.

Should it be the case, the EU could adopt a fast track mutual recognition for sanctions for road traffic offences and would not need to approximate procedural standards applicable in Member States for proceedings concerning road traffic offences.

Should the above assessment find that Member States' procedures for road traffic offences are not equivalent, a fast track mutual recognition would also require the adoption of EU measures approximating procedural standards of Member States and aimed at ensuring that the fundamental rights enshrined in the EU Charter are protected and thus, that the principle of mutual recognition of penalties for road traffic offences can work.

The Evaluation team has already collected relevant information on procedures applicable in Member States for road traffic offences. Such information is illustrated in Section 6.1 and constitutes the starting point of the above assessment.

Based on such overview, the Team believes that one of the main obstacles to a fast track mutual recognition at the EU level are the short delays for challenging a fine foreseen in some Member States of the EU. However, the assessment requires a detailed legal analysis.

The above conclusions allowed the Team to identify possible scenarios for future EU initiatives which are presented in the following paragraph.

6.5.3.2 Scenarios for possible future initiatives

For possible future assessment, we have identified a number of scenarios that could be explored to address the obstacles currently affecting the cross-border enforcement of penalties for road traffic offences. Some scenarios consist in the adoption of specific mutual recognition measures tailored for penalties for road traffic offences. Others consist in amendments to the CBE Directive that could help to overcome some of the main problems that some Member States encounter when they have to issue a fine for an

offence detected automatically and committed by a non-resident road user, i.e. identifying the driver.

The scenarios are the following:

- a) **Soft measures:** the EU would not adopt any binding act. Instead, the EU would invite Member States to conclude and implement cooperation agreements. To improve the current "status quo" in cooperation, the EU could encourage Member States to share best practices. The Salzburg Forum, in particular, could be used as a replicable example for Member States' cooperation and initiatives aimed at ensuring an improved exchange of documents and notifications as well as the enforceability of sanctions related to road traffic offences. The Commission could recommend not only bilateral agreements (and exclusively among neighbouring Member States), but also multilateral ones in order to involve countries which do not necessarily border one another. The EU could also invite Member States to apply for EU funds in order to develop translation of information letters to be used under the CBE Directive (in case the Member States do not wish to/cannot use the template in Annex II of the Directive) and/or certificates to be transmitted under the Framework Decision in all languages of the EU. The possibility to finance projects where Member States make available members of their staff in order to review the translations in their respective native language should be explored. The EU could also issue an interpretative note on the correct implementation of the Framework Decision and explain that the latter applies to criminal and administrative sanctions issued by criminal and administrative courts, assuming that the latter courts follow specific procedures and fundamental rights of citizens are guaranteed. Finally, in order to help Member States with the assessment on whether their administrative courts/authorities can be qualified as courts having jurisdiction in particular in criminal matter, the EU could finance a legal study covering 28 Member States aimed at identifying which national courts - competent to review sanctions for road traffic offences - could be qualified as courts having jurisdiction in criminal matters pursuant to the case law of the ECJ. This study would help Member States to assess whether their courts can request enforcement of decisions imposing financial penalties under the Framework Decision, but Member States would remain free to determine whether their courts can be qualified as courts having jurisdiction in particular in criminal matter. Finally, the EU could invite Member States to appoint a central authority to deal with the application of the Framework Decision.
- b) Amendment of the CBE Directive: amendments could improve cooperation between Member States in investigations. Possible amendments could consist of: i) provisions requiring Member States' enforcement authorities to provide reciprocal assistance in identifying the driver and to find the offender; ii) the introduction of a measure requiring Member States: a) to foresee an obligation of the owner of a vehicle with which an offence was committed in another Member State to reply to a foreign authority's binding request to identify the driver; and b) to foresee an appropriate sanction for non-compliance; iii) enhanced reporting obligations of Member States (update/replacement of Commission Recommendation 2004/345/EC); and iv) recommendations concerning principles on the use of automatic checking equipment as identified in the guidelines elaborated under this Study.

In this context the possibility could be explored to systematically finance police cross-border enforcement actions.

- c) Separate act on facilitating mutual recognition of financial penalties: the EU could adopt a fast track mutual recognition measure, to be applied regardless of both

the qualification (criminal or administrative) of the road traffic offence and the authority imposing and/or reviewing the sanction. As long as a decision imposing a financial penalty for a road traffic offence is enforceable in the Member State issuing the sanction, a measure on mutual recognition of financial penalties could be applied. This option could be better implemented through the establishment of a system allowing for an electronic transmission of decisions and thus through a mutual recognition measure that requires Member States to identify a central authority competent for outgoing and incoming requests of enforcement in each Member State.

- d) Amendment of the CBE Directive covering binding/legal measures mentioned above (b and c), including measures concerning mutual recognition of driving disqualifications.

That said, the scope of the above scenarios must be carefully assessed taking into account the differences currently standing in:

- National rules applying to the review of penalties inflicted for road traffic offences (see Section 6.5); and
- Demerit point systems linked to driving disqualifications.

A legal assessment should also evaluate the setup of a mechanism allowing Member States to invoke the suspension of the fast track mutual recognition of road traffic penalties on the ground that another Member State infringes fundamental rights in procedures aimed at imposing fines.

In addition, the Evaluation Team suggests that the scenarios implying mutual recognition should identify at the EU level which Member States' authorities/courts (competent for the review of sanctions for road traffic offences) follow rules that are compliant with principles that should be applied in proceedings concerning road traffic offences and whose decisions can, therefore, be mutually recognized²⁸⁵.

As to the option consisting of a fast track mutual recognition of driving disqualifications (demerit/penalty points), practical difficulties arise since not all Member States have a penalty point system. Thus a legal assessment should investigate the implementation obstacles of such option and whether it requires the adoption of an EU measure requiring Member States to adopt penalty point systems and disqualifications in case a number of points are reached²⁸⁶.

6.5.4 Conclusions

Our analysis found that the CBE Directive provides a crucial tool for improving the cross-border enforcement of sanctions for road traffic offences to the extent that it allows Member States to identify the owner of offending vehicles registered in other Member States and, where applicable²⁸⁷, to sanction them. The analysis also found that non-

²⁸⁵ In EU law the Directives on public procurements for example identify which Member States' authorities are qualified as contracting authorities. This model could be replicated.

²⁸⁶ The mutual recognition of demerit points does not seem to conflict with the provisions of the CBE Directive, as the latter does not prevent an exchange of information among Member States concerning penalty points.

²⁸⁷ I.e. to the extent that national law does not foresee the identification of the driver as a precondition to issue a fine for a road traffic offence.

resident offenders tend to pay the above fines voluntarily and that this can be an indication that road users perceive the cross-border enforcement as effective and no longer believe that they enjoy impunity when driving in a Member State where they do not reside (see Section 6.3).

However, as things stand now, the fines imposed by Member States to non-resident offenders are not likely to be enforced under the Framework Decision. The number of execution requests of financial penalties under existing EU tools, such as the Framework Decision is extremely low compared to the number of sanctions for road traffic offences that should be object of requests of enforcement. This suggests that Member States tend to refrain from using the FD for enforcing sanctions against non-residents road traffic offenders.

Against this background, the Evaluation team deems necessary, for the long term, an amendment of the CBE Directive and the adoption of a tailored measure applying the principle of mutual recognition to sanctions for road traffic offences, in order to ensure a consistent enforcement of road traffic rules.

However, every policy initiative in this area should take into account the need to balance the respect for fundamental rights (notably of defence rights), as these are the limits to the application of the principle of mutual recognition of penalties in the EU legal order.

It is therefore of foremost importance that a tailored mutual recognition measure is adopted only whether is attested that all MS proceedings for road traffic offences protect fundamental procedural rights that are proportionate to the severity of the sanctions foreseen for road traffic offences.

A tailored mutual recognition measure has indeed to be based on a high level of trust between Member States and will be endorsed by the EU Court of Justice only to the extent that such rights are guaranteed.

Finally, in order to substantially improve the cross-border enforcement of road traffic rules, it could be beneficial to address legal barriers to cross-border enforcement related to the existence of different liability rules at the Member States level by means of specific measures. Practical solutions that imply improving cooperation mechanisms between enforcement authorities could avoid recourse to measures harmonizing road traffic rules, which would likely encounter political opposition.

That said, in the short term, it would be beneficial to improve recourse to the existing mechanism ensuring mutual recognition of financial penalties and to clarify its scope, namely the Framework Decision. Moreover, it would help to open infringement proceedings against Member States which have not implemented the FD correctly or have not implemented it at all.

7. ANSWERS TO THE EVALUATION QUESTIONS

7.1 Findings from the tasks

This Sub-section aims at providing a synthesis of the findings from the Study per task²⁸⁸ in order to reply to the Evaluation questions.

I. Task 1 aimed at providing a quantitative assessment of the effectiveness of the CBE Directive on the reduction in the number of fatalities and accidents on EU roads in 2013/2015. Based on the result of the analysis, the CBE Directive has likely contributed to a reduction of fatalities and fatal accidents involving non-residents by increasing likely the level of compliance with road traffic rules and improving cross-border enforcement of sanctions for road traffic offences covered by the CBE Directive. There are no sufficient data allowing for the quantification of the direct impact of the CBE Directive on fatalities and fatal accidents involving non-residents. The CBE Directive also facilitated the access to information concerning road traffic rules in force in all EU Member States for road users. There are instead no conclusive data allowing an assessment that the CBE Directive has increased the level of awareness of road users on road traffic rules in force in other Member States of the EU, but only indications in this sense.

The Evaluation team concluded that the CBE Directive has likely impacted fatalities and fatal accidents due to a combination of findings.

- The first argument is that, as illustrated in Section 6.3, the Evaluation found indications that the implementation of the CBE Directive contributed to a reduction of fatalities (and fatal accidents) involving non-residents in 2014 compared to 2013 and of the share of fatalities (and fatal accidents) involving non-residents. Such reduction was registered in most Member States (5) implementing the CBE Directive in 2014 and which provided data. Only one Member State did register an increase of overall fatalities involving non-residents of 1%, but this was accompanied by an increase of all fatalities. In all the other five Member States the decrease of fatalities and fatal accidents involving non-residents was accompanied either by an increase of all fatalities or by a smaller decrease of all fatalities. The reduction of fatalities involving non-residents varied from 9% to 25%.
- Secondly, it could be argued that the implementation of the CBE Directive has already impacted the level of compliance of non-resident offenders and their behaviour regarding speeding offences. Indeed two Member States, notably France and Poland (Indicator N° 1), actively implementing the CBE Directive, registered, in the time slot 2014-2015, a decrease in the share of speeding offences committed by non-residents (out of all speeding offences) by more than 1 percentage point.
- Thirdly and most importantly, since the implementation of the CBE Directive a much higher number of Member States is following-up road traffic offences electronically. This has allowed increasing by at least 230% the number of CBE offences followed-up and therefore the possibility to sanction non-resident offenders. In addition, this improvement has likely contributed to improve the effectiveness of cross-border enforcement of road traffic rules. As a stronger enforcement has a deterrent effect, it is likely, although not proved, that the CBE Directive has had a positive impact on compliance with road traffic rules.

²⁸⁸ Task 6 consisted in organising a Stakeholder Meeting on the CBE Directive. The latter took place in Brussels on 5 October 2015.

The combination of the above factors allowed the Team to conclude that the CBE Directive might have to some extent directly impacted the level of compliance with road traffic rules when driving abroad and indirectly the number of fatal accidents and fatalities on EU roads.

This analysis allowed also the Evaluation Team to conclude that the potential impact of the CBE Directive on fatalities and fatal accidents is not fully achieved due to some obstructing factors. One of them is the poor/limited use of automatic checking equipment in some Member States that has been assessed under Task 3. Other factors are: (i) the late implementation of the CBE Directive at the Member States level; (ii) and differences in liability regimes for road traffic offences that might prevent some Member States with a stricter driver liability regime from fully exploiting the CBE Directive until the establishment of cooperation mechanisms among enforcement authorities aimed at identifying the driver of an offending vehicle.

II. Task 2 aimed at assessing the degree of effectiveness of the EUCARIS/CBE interface, i.e. the extent to which EUCARIS has facilitated the exchange of specific vehicle registration data between Member States. Based on the analysis' results, the Evaluation concluded that **the EUCARIS/CBE application does contribute to the effective implementation of the CBE Directive, including equal treatment of resident and non-resident offenders**. However, its potential to ensure that non-resident offenders are tracked for the offences they committed could be further improved. This conclusion is further detailed in the answer to evaluation question N° 5 and 7 in section 7.5.

III. Task 3 aimed at assessing the need to develop comparable methods, practices and minimum standards for automatic checking equipment and at drafting a proposal for road safety guidelines outlining the best practices 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. The Evaluation team concluded that while it is premature to state a need to harmonize standards for automatic checking equipment, it could be beneficial, in the long term, to foster a certain level of convergence of legal standards and practices for the automatic enforcement of road traffic rules. Indeed the Team spotted national case law that requires that the equipment used to detect road traffic offences complies with minimum standards that in some cases go beyond the standards of existing national legislation. According to the Evaluation team this shows that national courts are ready to assess whether the equipment used by enforcement authorities is appropriate, taking into account general principles of law and not only the fact that the equipment complies with regulatory provisions of their Member States. Against this background, the Evaluation team maintains that, from a legal standpoint, it cannot be excluded that, in the future, national courts may refuse to recognize penalties imposed by authorities of other Member States and give credit to the claims of the offenders alleging that the standards of the automatic checking equipment used in other Member States are not equivalent to the ones applied in the Member State where a sanction has to be executed²⁸⁹.

As for the identification of best practices for the automatic enforcement of road traffic rules, the Evaluation team assessed that the UK and the Netherlands as bearing best practices since the equipment installed in such Member States ensures a good coverage of the national roads. In addition, an analysis of the UK and Dutch legal framework shows that the above Member States have clear and transparent provisions on the legitimate use of automatic checking equipment.

²⁸⁹ However, the lack of relevant cross-border case leaves scope to uncertainty on whether this will happen.

IV. Task 4 aimed at assessing the follow-up of the exchange of information in order to strengthen the enforcement of sanctions, especially in case a financial penalty's payment is refused. It also included: (i) common criteria for the procedures concerning mutual recognition of financial penalties; (ii) an assessment of whether the mutual recognition of financial penalties for the offences covered by the CBE Directive requires for the harmonisation of relevant road traffic rules; (iii) and an assessment of whether other road safety related traffic offences should be included within the scope of the CBE Directive. The Evaluation Team concluded that the scope of the CBE Directive is overall adequate as it covers the offences that are likely to be committed by non-resident drivers and notably speeding which accounts for more than 70% of offences committed by non-residents and since most stakeholders consider appropriate the current scope. It also concludes that the extension of the scope of the CBE Directive to other offences may not be useful at this stage since the offences that are covered by the CBE Directive can be detected automatically in many EU MS, while other offences cannot be detected automatically in most Member States and are in general detected manually by enforcement authorities. The authorities have thus the possibility to stop the vehicle and impose a sanction more effectively on the spot. On this respect, the Evaluation Team would also point out that, considering the costs related to the cross-border enforcement of sanctions for road traffic offences, the inclusion of offences such as illegal parking or tolling offences in the scope of the CBE Directive might hinder the overall functioning of cross border enforcement. Indeed, if offenders do not pay the fines for illegal parking or tolling offences, it is foreseeable that there will be millions of requests of mutual recognition of financial penalties. This might have disruptive effects both on the application of the Framework Decision and on the application of the principle of mutual recognition to financial penalties for offences that have greater impact on road safety.

The Evaluation team concluded that existing EU tools on follow-up procedures for the exchange of information are rarely used by enforcement authorities as most stakeholders confirmed that the rate of enforcement of road traffic offences under existing procedures is close to 0 (see Section 6.1.4). It also concluded that such procedures need to be strengthened because it is foreseeable that the CBE Directive will lose its deterrent effect when road users realize that financial penalties are not often pursued by other Member States under the Framework Decision. Furthermore, this Evaluation concludes that the harmonization of road traffic rules at the EU level does not appear to be strictly necessary in order to strengthen the cross-border enforcement of road traffic rules and that tailored and less far reaching EU rules could address issues that still affect the effectiveness of the cross-border enforcement of road traffic rules.

The Evaluation team concluded that bi-lateral or multi-lateral agreements between Member States (i.e. international agreements), addressing exchange of information issues or assistance in investigations concerning road traffic offences, are effective cross-border enforcement tools. However, due to their limited geographical scope they cannot be considered as suitable alternatives to the CBE Directive and to an EU-wide approach for the VRD exchange as well as for its follow-up (see Section 6.1). Taking into consideration the estimate number of offences followed-up under international agreements, on a yearly basis, before 2014, and the number of offences followed-up further to the implementation of the CBE Directive, the latter number for the year 2015 is estimated at more than double. This number will be much higher, for example, when France will be able to follow-up offences committed by Italian road users amounting, on average, to 400,000 per year. Most importantly the number of offences followed-up increased from an average flat rate of 0 (in the years before the implementation of the CBE Directive) to 30,000 (estimates) in 2015 for Hungary and for Poland, further to the implementation of the CBE Directive. This shows that the impact of the CBE Directive on enforcement is not comparable to the impact of international agreements. In addition, as explained under Task 1, the increase of the number of offences followed-up under the CBE Directive compared to the situation before could be estimated already to amount to 230% and is likely to be of more than 400% in the near future.

V. Task 5 aimed at assessing the costs of cross-border exchange of VRD and follow-up procedures related to the enforcement of sanctions for road traffic offences, i.e. the follow-up to VRD exchange. Such assessment covered the aspects of the follow-up procedures covered by the CBE Directive, i.e. sending information letters to the offenders. It did not cover the phases of cross-border enforcement that are opened when a non-resident offender refuses to pay or simply does not pay, i.e. the follow-up procedures for the recovering of fines. Based on the results of the analysis, the Evaluation concluded that the costs incurred in the cross-border exchange of data and for the follow-up to the VRD exchange are adequate to achieve the objectives of the CBE Directive. The majority of the EU Member States indeed does not consider as excessive the implementation costs of the software applications needed to carry out the searches under the CBE Directive regime (including the annual costs related to the development, support and maintenance of the EUCARIS/CBE application and the maintenance of their connection to the application). The Evaluation considers that some of the above costs could be even cut back by reducing the time spent on administrative activities carried out by EU Member States. Concerning the cost of follow-up to VRD, the Team concluded that they are unavoidable for the reasons explained in Section 6.4.

VI. Task 7 aimed at assessing the legal consistency of the CBE Directive. The Evaluation Team found that the CBE Directive is partially consistent since it covers also offences that cannot be detected automatically nor be detected without stopping the vehicle and identifying its driver. Thus, it covers offences whose enforcement is not facilitated by the mechanism put in place by the CBE Directive. However, the Evaluation Team found that such partial inconsistency does not affect in practice the implementation of the CBE Directive. Thus, it does not appear strictly necessary to address this inconsistency (see Section 6.5). In addition, the Team did not identify provisions within the CBE Directive that conflict with provisions of other EU legal measures and that could possibly affect the consistency of the CBE Directive with other road safety measures.

7.2 Relevance

1. Is the scope of the CBE Directive in terms of traffic offences adequate? If it is not, in which respect?

The CBE Directive is an enforcement tool. It allows Member States' enforcement authorities to exchange vehicle registration data ("VRD") in order to identify the owners of foreign registered vehicles with which one of the following road traffic offences was committed: speeding; non-use of a seatbelt; failure to stop at a red light; drink-driving and driving under the influence of drugs; failing to wear a safety helmet; use of a forbidden lane and illegal use of a mobile telephone or any other communication devices while driving.

This exchange is a precondition for the issue of a fine when the vehicle is not registered in the Member State where an offence has been committed.

The need to identify the owner of a foreign registered vehicle arises only when an offence is detected without stopping a vehicle, for example by fixed speed cameras or by mobile speed cameras activated manually by enforcement authorities.

An exchange like the one foreseen by the CBE Directive is superfluous instead when, in order to detect a road traffic offence, it is necessary to stop the vehicle. This is the case for drink and drug-driving, where the driver of a vehicle must be compelled to take an alcohol test or a drug test.

The findings above demonstrate that the inclusion of drink-driving and drug-driving in the scope of the CBE Directive is irrelevant for the enforcement of such offences against non-resident drivers and casts some doubt as to the logical consistency of the CBE Directive.

That said, the scope of the CBE Directive is, overall, adequate as the Directive covers offences that represent the vast majority of offences committed by non-resident drivers and can be detected automatically or without stopping a vehicle. The offences covered by the CBE Directive and in particular speeding offences represent the majority of the offences committed by non-residents in the Member States that were able to provide data, such as Hungary and Belgium. Indeed, based on these two case studies speeding offences represent from 70% to 90% of offences committed by non-residents.

In addition, and most importantly, the Directive covers two offences which are a major threat for road safety. Indeed speeding and not wearing a seat belt are two of the main contributing factors in fatalities on EU roads.

The above conclusion is confirmed by 100% of the stakeholders consulted.

Furthermore, it could be argued that the CBE Directive's consistency is affected only to a limited extent by the fact that it covers offences such as drink- and drug-driving.

In conclusion, the scope of the CBE Directive is generally considered adequate as it covers offences that pose a threat to road safety and are likely to be committed by non-residents.

2. Does the CBE Directive adequately cover the issue of the awareness of citizens on rules in force in EU Member States in the field covered by the CBE Directive? If not, in which respect?

The CBE Directive requires the Commission to make available, on its website, a summary in all EU official languages of the rules in force in Member States in the field covered by this Directive and Member States to provide information on these rules to the above end.

It also requires Member States to provide road users with the necessary information about the rules implementing the CBE Directive, i.e. information that should render road users aware of the fact that each Member State exchanges information with other Member States allowing for the identification of his residents having committed a road traffic offence abroad.

Thus the CBE Directive foresees mechanisms to inform road users of the rules in force in Member States where they do not reside in a language that they understand, and, ultimately, provides for all EU citizens the access to information on road traffic rules.

Moreover, it requires Member States to advertise the fact that there are mechanisms that allow for the cross-border exchange of VRD and that road traffic offences committed abroad will be sanctioned.

This implies that the Directive covers two crucial factors influencing the driving behaviour, one is the knowledge of the rules that the driver should comply with, while the other is the awareness that traffic law enforcement is effective.

Both elements are necessary in order to influence road users' behaviours and make them aware of the necessity to comply with road traffic rules.

Firstly, if the driver is not aware of the rules in force he cannot comply with them.

Secondly, if the driver is not made aware that the enforcement is effective, then, the rules in force and the relevant sanctions are likely to lose their deterrent effect.

The above conclusions are confirmed by the consultation of stakeholders carried out by the Evaluation team which did not identify flaws in the provisions of the Directive on awareness and did not identify knowledge gaps not/inefficiently targeted by the provisions of the CBE Directive.

On the contrary, all the consulted stakeholders indicated as a relevant source of information for road users the information provided further to the implementation of the CBE Directive on the EU webpage Going Abroad.

In addition, road users appear to consult the web pages where information provided further to the implementation of the CBE Directive is available and to download the EU application where the same information is available ('Going Abroad' application). This may account as an indication that the information provided under the CBE Directive does fill a knowledge gap from road users' standpoint.

In conclusion, the Evaluation team maintains that while there are no indications that the Directive does not adequately cover the issue of awareness, there are, on the contrary, indications that Directive is likely to adequately cover such issue, since this Evaluation did not identify flaws in the CBE measures on awareness and road users seem to consult the sources of information made available pursuant to the CBE Directive.

Regrettably, as no road users participated to our consultation, it was not possible to confirm the above finding taking into consideration road users' opinions.

7.3 EU Added Value

15. What are the advantages of an exchange of vehicle registration data at the EU level? In how far could the same or better results be achieved by bilateral or multilateral agreements between Member States?

The CBE Directive has covered a legal gap at the EU level since it has facilitated the follow-up of offences committed by non-residents in the EU. Before the implementation of the CBE the available tools to exchange VRD and, thus, to follow-up road traffic offences were limited/less effective.

Before the CBE was implemented, the majority of Member States exchanged VRD only occasionally, by letter and only with neighbouring countries. Based on gathered information the only Member States exchanging a significant number of VRD and thus following-up a significant number of road traffic offences, i.e. more than 100,000 offences, were the Netherlands, Germany, and Belgium.

France had no agreement with a neighbouring country such as Italy, whose residents were estimated to commit more than 400,000 offences on a yearly basis²⁹⁰.

Member States such as the Czech Republic²⁹¹, Estonia²⁹², Romania²⁹³, Lithuania²⁹⁴, Slovakia²⁹⁵, Poland²⁹⁶ and Spain were not parties to any bilateral or multilateral

²⁹⁰ Information provided by French Interior Ministry via email.

agreement covering cross border enforcement of sanctions for road traffic offences or simply the exchange of VRD.

Some Member States, such as Austria, Slovenia and Slovakia refer that in certain cases the exchange of owners' data was carried out on the basis of international agreements, nevertheless, such exchanges were occasional and rather limited to more serious traffic offences.

The description above clarifies that existing cooperation tools among enforcement authorities of Member States are not a valid alternative to an EU-wide system due to the fact that they are mostly bi-lateral agreements and thus cover only limited parts of the EU territory. As explained in Sections 6.1 and 6.3, bi-lateral agreements, in the best case scenario, allowed the exchange of information and thus the follow-up of 500,000 road traffic offences, on a yearly basis, committed in the Netherlands; while the implementation of the CBE Directive has already allowed the Netherlands to increase by 30% in one year the number of offences followed-up²⁹⁷. France has followed-up in 2014 and 2015 under the CBE Directive a number of offences that is 3000% higher than the number of offences it followed up before the CBE Directive²⁹⁸. Similar improvements have been registered in Poland, Lithuania and Hungary²⁹⁹.

In addition, from a purely legal standpoint, one should consider that EU law prevails on national law, and thus Member States' enforcement authorities are obliged to grant access to their VRD registries as failing to do so would likely lead to the opening of an infringement proceeding by the European Commission.

This is not the case for international agreements which are sometimes not applied by enforcement authorities because there might be national sources contradicting them³⁰⁰ or

²⁹¹ Information confirmed by Czech Ministry of the Interior. "The Czech Republic is not bound by any international agreement with other Member States which would cover the exchange of such information about the offenders. The only related agreements are the Police cooperation agreements which involve only criminal offenses therefore do not cover minor or traffic offenses.

²⁹² Information provided by Estonian Police.

²⁹³ Information confirmed by Romanian police by email of 21 January 2015.

²⁹⁴ Information confirmed by Lithuanian authorities.

²⁹⁵ For Slovakia this information has been confirmed by Slovak authorities.

²⁹⁶ Information confirmed by Polish authorities on 22 January 2016.

²⁹⁷ See Section 6.2 and 6.3. Based on the data provided by the Dutch authorities before the implementation of the CBE Directive (in 2014) the Netherlands followed-up by around 442000 CBE offences (speed and red light offences). Such offences were committed with Belgian and German registered vehicles. In 2015, the Netherlands followed-up 575607 under the CBE Directive. Information provided by the Dutch authorities.

²⁹⁸ See Section 6.2 and 6.3. As explained in Section 6.3 France exchanged systematically data before the implementation of the CBE only with Luxembourg (i.e. maximum 40,000 offences). Based on data provided by the French authorities France has followed -up (on a yearly basis) under the CBE Directive more than 1,300,000 offences in the year 2014 and in the year 2015.

²⁹⁹ See Section 6.3.7, Table 25 and Section 6.2, Table 16 where data on offences followed-up via EUCARIS are provided. Information has been provided by national authorities of the relevant Member States.

³⁰⁰ Information confirmed by Austrian Interior Ministry.

else sometimes enforcement authorities simply do not have the resources or the will³⁰¹ to cooperate with other Member States' enforcement authorities.

In conclusion, the advantages of the exchange of vehicle registration data at the EU level are: firstly its reliability³⁰² and, secondly, the fact that it covers all Member States. On this regard one should note that such exchange has already increased the number of offences followed-up in the EU by more than 230% and, under full implementation, it will likely increase it by more than 400% compared to before the implementation of the CBE Directive.

7.4 Efficiency

12. To what extent are the costs involved in the cross-border exchange of data and for the follow-up procedures adequate to achieve the objectives of the CBE Directive?

Taking into account the cost-effectiveness result of the EUCARIS/CBE application and that none of the proposed alternative mechanisms to the CBE Directive would be able to provide the same level of enforcement, or at least not at the same cost or not serving the CBE Directive final objective; **the Evaluation team concludes that the costs related to the cross-border exchange of data and for the follow-up procedures (covered by the CBE Directive) are adequate to achieve the objectives of the CBE Directive.**

With regards to the costs related to the exchange of vehicle registration data, the highest costs for EU Member States are related to (i) the development and maintenance of their national interface to plug in the EUCARIS/CBE application and (ii) the time spent by national contact points and civil servants to perform the administrative activities required by the CBE Directive. Based on the estimates made during the assessment of the CBE Directive³⁰³, **the costs related to the exchange of vehicle registration data can be considered as insignificant in comparison to the costs related to follow-up procedures falling under the scope of the CBE Directive.** When these costs are put into perspective, it indeed appears that it is significantly more expensive for Member States to enforce sanctions (EUR 5m to 6.5m annually for the EU 27³⁰⁴) than to get the necessary information allowing them to initiate follow-up proceedings (highest yearly costs for the period 2013-2017 estimated at EUR 1.3m for the EU28 for the exchange of vehicle registration data).

Also, it appears that **the majority of the EU Member States do not consider as excessive the implementation costs of the software applications to carry out the searches under the CBE Directive regime** (including the annual costs related to the

³⁰¹ Information confirmed by Austrian Interior Ministry.

³⁰² Information confirmed by legal expert at the Austrian Ministry of Interior who states that before the CBE in practice Austria exchanged data only with Germany because cooperation with German counterparts worked more smoothly.

³⁰³ [SEC\(2008\) 351/2, Commission Staff Working document accompanying the 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} {SEC\(2008\) 350}, Brussels.](#)

³⁰⁴ At the time of the impact assessment, HR was not yet part of the EU.

development, support and maintenance of EUCARIS/CBE application and the maintenance of their connection to the application).

The estimates show that **the revenues specifically generated by the CBE Directive for FR, HU, PL and NL are already higher than the overall costs assessed for the EU28 to implement the Directive.** Such revenues would indeed amount to EUR 36m³⁰⁵ while the costs related to the implementation of the CBE Directive for the EU28, including the costs related to follow-up proceedings, was estimated as to never have exceeded EUR 7.8m over the last five years.

Furthermore, the increased use of the EUCARIS/CBE application by EU Member States to conduct automated searches combined with the increased quality of the search results should increase the chance of higher revenues compared to before such application ever existed.

When it comes to spillover effects related to the compliance of EU Member States with legal rules (so-called "indirect compliance benefits"), the Evaluation maintains that the impact of the CBE is very hard to quantify. However, based on the estimates of the European Transport Safety Council, it appears that, **from the moment the CBE Directive proved that it had prevented at least four more road fatalities in the EU than before its adoption, the economic benefits related to the CBE Directive would overbalance its related costs.**

When comparing the costs related to the existing situation with these related to three alternative mechanisms³⁰⁶ for the exchange of VRD: (i) an EU database on VRD; (ii) an EU Directive foreseeing that the enforcement of sanctions is carried out by the Member State where the vehicle is registered; and (iii) joint road traffic enforcement operations; **the Evaluation team also considers that no alternative mechanism would provide the same level of enforcement as the CBE Directive**, while achieving the same benefits at less cost (or greater benefits at the same cost).

The other (more targeted and technical) alternative could be to replace EUCARIS/CBE application with another system. **EUCARIS/CBE application however presents the lowest Total Cost of Ownership (TCO)**³⁰⁷, in comparison with two other systems with similar business purpose and characteristics (ERRU and RESPER). While the TCO of the EUCARIS/CBE application was estimated to amount at EUR 0.366m between 2013 and 2016, the amounts for the same time span were estimated at EUR 1.448m and EUR 1.83m respectively for ERRU and RESPER.

Due to the facts that the costs involved in the cross-border exchange of data and for the follow-up proceeding are not higher than its benefits and that this Evaluation did not identify alternatives that could achieve the same results in terms of road safety. This Evaluation concludes that the costs entailed in the cross-border exchange of data and for the follow-up to VRD exchange are adequate for the achievement of the CBE Directive's objectives.

³⁰⁵ This is the sum of the lowest estimated revenues for NL (EUR 3.7m); FR (EUR 28m), HU (EUR 3.5m) and PL (EUR 0.8m).

³⁰⁶ These alternative mechanisms are further described in the answer to question 14.

³⁰⁷ The TCO of an information system defines the total estimated cost to develop the system, to put it into production, to operate it, to support it, to maintain it and, to phase it out at the end.

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

Even though the cost related to the CBE Directive implementation by EU Member States is considered as rather low, this Evaluation maintains that it could be further reduced by narrowing the scope of some activities carried out by EU Member States.

The reporting of EU Member States to the Commission, to a large extent, and the submission of an information letter in the language of the registration document to the non-resident offender, when a Member State decides to initiate follow-up proceedings, to a lower extent, indeed require internal resources of EU Member States to spend a significant amount of time on administrative activities, in order e.g. to prepare, conduct and follow-up internal and external meetings, retrieve and check information. The compliance of EU Member States with these two legal requirements, respectively related to Article 6 and 5 of the CBE Directive, could indeed be made more efficient.

In this regards, some of the time spent on the reporting of EU Member States to the Commission could be saved if the reporting functionality of the EUCARIS/CBE application was further improved so as to report automatically to the European Commission the number of searches conducted, including the failed ones, as requested in Article 6 of the CBE Directive.

Also, while the Commission already provided a template for the information letter in the Annex II of the CBE Directive and has translated it in all official languages of the EU, additional tools could be made available to EU Member States to support the translation of the additional fields needed in the information letter or of the answers from non-resident offenders (in their native language) to the abovementioned information letter.

14. Would it be possible to achieve the same level of road safety protection more efficiently by other methods of enforcement of traffic rules?

Based on the analysis of three possible alternative mechanisms for the exchange of VRD: (i) an EU database on VRD; (ii) an EU Directive foreseeing that the enforcement of sanctions is carried out by the Member State where the vehicle is registered; and (iii) joint road traffic enforcement operations, **the Evaluation team concludes that it would not be possible to achieve the same level of road safety protection more efficiently by other methods of enforcement of traffic rules.**

All the stakeholders consulted agreed that there is not alternative mechanism to the electronic VRD exchange able to improve the cross-border enforcement of sanctions for road traffic offences.

On the one hand, the electronic VRD exchange is complementary to other existing EU tools concerning the mutual recognition of penalties and to other tools that could be adopted at the EU level, based on a mechanism of mutual recognition of penalties that could be tailored to the enforcement of road traffic rules. On the other hand, the reported level of satisfaction with the mechanism that is technically allowing the VRD exchange under the CBE Directive is high, as explained in Section 6.2.6.

As mentioned, from a purely theoretical standpoint, a first alternative mechanism to VRD exchange foreseen by the CBE Directive could be an **EU database on VRD.**

Such a system would likely allow the achievement of the same results as the CBE Directive as it would allow the Member State of the offence to identify the owner of the vehicle and issue a fine. However, it would pose the following challenges that would likely amount to substantial, although not quantifiable costs:

- **Technical:** i.e. harmonisation of the vehicle registration data formats among Member States;
- **Legal:** i.e. question of the responsibility for keeping such a registry up-to-date;
- **Political:** likely opposition of Member State who would be no more the owners of national vehicle registration data.

In addition, from a legal standpoint, this alternative should be assessed in light of the subsidiarity principle, considering that the exchange of VRD allows Member States to access the data related to the owner of a vehicle resident in other Member States and that the creation of a single database does not appear strictly necessary in order to enforce sanctions for road traffic offences committed by non-residents.

Moreover, the creation of a single database would likely result in **implementation delays, and thus to additional and not quantifiable costs**, since it would require the integration of the data from all Member States before any effective functioning of the system. The existing system, on the other hand, allows those Member States connected to EUCARIS to exchange data, at best bilaterally, at worse unilaterally, even though EUCARIS/CBE application is not operational for all MS. Therefore, the use of the EUCARIS/CBE application is not compromised by the fact that a Member State did not implement it, since other Member States can still exchange data among them.

A second possible alternative, identified in the Impact Assessment to the CBE Directive, is an **EU Directive to foresee the enforcement of sanctions by the State where the vehicle is registered**.

This alternative would, however, pose legal challenges since it implies the adoption of measures on the **mutual recognition of evidence**. Additionally, due to the **link between liability rules and constitutional principles**, it is likely that the authorities of many Member States would not be able to impose fines on their residents for offences committed in another Member States. **Translation issues** would also be a major problem and related costs would most likely be higher than the ones under the CBE Directive. The enforcement authorities of the State of residence of the offender would have to issue a sanction for an offence committed in another Member State and in some cases bring a case before a competent court to issue a fine. This implies that the Member State of the offence would have to translate more documents than a simple information letter as it occurs in relation to the CBE Directive. Indeed, all the evidence of the case should be translated in order to allow the enforcement authorities of the State of residence to issue a fine for an offence detected in another Member State.

In light of the above, in particular the complexity for a State of residence to issue and enforce a fine for a road traffic offence committed in another Member State, **less offences are expected to be followed-up and enforced** under this second alternative mechanism. If less offences are followed-up and enforced, drivers will not be encouraged to change their behaviours on the road (e.g. speeding offences), which also puts at risk the ultimate objective of the CBE Directive: ensuring a high level of protection for all road users in the Union.

A further non-legislative initiative aimed at facilitating the cross-border enforcement of road traffic rules is the TISPOL STRIDER Project which commenced on 1st March 2015 and will conclude on 31st May 2017. As explained in Section 6.1.7, the project has, among others, the following objectives ³⁰⁸:

³⁰⁸ Funded by the European Commission DG MOVE through a grant awarded further to the call for proposals – MOVE/C4-2013/122-2.

- To promote efficient cross border co-operation between Member States concerning the enforcement of traffic rules;
- To carry out pan-European Enforcement operations with particular emphasis on those offences identified in the CBE.

Within the context of such projects, 7 operations were carried which led to the detection of hundred thousand CBE offences in short time-slots (1 week or 24 hours). Some operations were also carried out at the border between two Member States, in order to increase the possibility to identify non-resident offenders.

With respect to such alternative the Team concluded that enforcement actions, in particular if carried out at the border between two Member States have the potential to detect a **great number of offences in a specific geographic area and in a relatively short period of time** and to display a strong **deterrent effect**. Thus, they may be fully complementary with the CBE Directive.

However, such operations could not replace the CBE Directive, as the latter is a tool that mainly facilitates the enforcement of offences detected **automatically** and committed by **non-residents** in all EU territory, during the whole the year.

To conclude, this Evaluation could not identify alternative methods of enforcement to the CBE Directive that could achieve the same level of road safety protection more efficiently. It could, on the other hand, identify complementary methods of enforcement such as targeted operations at the border involving police of more Member States that can foster a strong deterrent effect for all road users, including non-residents.

7.5 Effectiveness

3. What are the impacts on fatalities and accidents of the measures set out in the CBE Directive?

Based on the result of the analysis, the CBE Directive has likely contributed to a reduction of fatalities and accidents involving non-residents by likely increasing the level of compliance with road traffic rules and improving cross-border enforcement of sanctions for road traffic offences covered by the CBE Directive. As illustrated in Section 6.3 the Evaluation found indications that the CBE Directive implementation has contributed to a reduction of fatalities (and fatal accidents) involving non-residents in 2014 compared to 2013 and of the share of fatalities (and fatal accidents) involving non-residents of all fatalities (and fatal accidents). Such reduction was registered in most Member States that were implementing the CBE Directive in 2014 and provided data (FR, HU, LT, PL, AT) and varied from 9% to 25%. Only one Member State, Germany, did register an increase of fatalities involving non-residents of 1% matched by a similar increase of all fatalities. In addition, Belgium³⁰⁹, a Member State implementing the Directive in 2014, registered in the time-slot 2013-2014 a reduction of the number of accidents with injured people or fatalities.

³⁰⁹ Since Belgium did not provide data on fatalities involving non-residents its data could not be compared with the data of the further 5 Member States having implemented the CBE Directive. However, it should be stressed that also Belgium registered a reduction of the involvement of non-residents in road accidents affecting road safety.

Secondly, looking at the data of 2015, it could be argued that the implementation of the CBE Directive has already improved the level of compliance of non-resident offenders and their behaviour regarding speeding offences.

Decreases in the share of speeding offences committed by non-residents out of all speeding offences were registered in two Member States that were actively implementing the CBE Directive in the time-slot 2014-2015. Such decreases were respectively by 2.3 and 1.2 percentage points.

The same two Member States, notably France and Poland, registered also an increase in the number of offences followed-up further to the implementation of the CBE Directive. Thirdly and most importantly, further to the implementation of the CBE Directive a much greater number of Member States is following-up road traffic offences than before 2014. This has allowed for the increase by at least 230% of the number of CBE offences involving non-residents followed-up and possibly of sanctions successfully enforced and has contributed to improve the cross-border enforcement of road traffic rules. As a stronger enforcement has a deterrent effect and is likely to improve compliance^{310 311}, its impact on fatalities, although not quantifiable is likely. Consequently it could be argued that, having regard to the impact of the CBE Directive on cross-border enforcement, its impact on the behaviour of road users is likely.

The combination of the above factors allowed the Team to conclude that the CBE Directive might have to some extent directly impacted the level of compliance with road traffic rules when driving abroad and indirectly contributed, together with other factors, to a reduction of the number of fatalities and fatal accidents involving non-resident on EU roads.

4. Are there any non-targeted significant results and impacts of the measures set out in the CBE Directive?

The consultation of stakeholders did not allow the identification of non-targeted significant results and impacts of the measures set out in the CBE Directive.

The Evaluation team consulted specifically stakeholders on this aspect, by means of a question in the questionnaire used for the stakeholder consultation. The question identified as a possible non-targeted impact the improvement of cooperation of enforcement authorities in connection with investigations concerning crimes and offences not covered by the CBE Directive.

Only Belgian authorities refer that the implementation of the Directive has somehow enhanced also the cooperation of enforcement authorities with authorities of other

³¹⁰ This is confirmed by the findings of our stakeholder consultation. All the stakeholders consulted and who expressed an opinion stated that poor enforcement is one of the main contributing factors to unsafe driving behaviours. Reply provided by the Institut Belge pour la Sécurité Routière, Cypriot Police, University of Athens, French Association de la Prévention Routière,, Hungarian Institute for Transport and Science, ACI,, FEVR (European Federation of Road Traffic Victims).

³¹¹ Specific studies have also confirmed the positive impact of enforcement on compliance and, thus on fatalities. Among others: SafetyNet (2009) Speed Enforcement Project co-financed by the European Commission, Directorate-General Transport and Energy. http://ec.europa.eu/transport/roadsafety/specialist/knowledge/pdf/speed_enforcement.pdf.

Member States in the investigations concerning criminal offences but did not provide further details.

On the contrary, the majority of stakeholders consulted did not detect any impact of the measures set out in the CBE Directive not related to road safety.

The fact that the CBE Directive has been implemented by some Member States only in late 2015 and by only 8 Member States in 2014, and the consequent lack of experience of the consulted stakeholders with its implementation, was considered by the Team as one of the reasons why the consultation did not allow for the gathering of sufficient evidence attesting the Directive's role in facilitating the cooperation of police authorities in the fight against cross-border crimes and in the localization of criminals moving across the EU.

The Evaluation team carried out desk research aimed at verifying such hypothesis. However, the research did not gather information that could confirm the above hypothesis.

Against this background this Evaluation concludes that it might be too early to identify specific trends concerning non-targeted significant results and impacts of the CBE Directive not related to road safety.

5. What are the main problems with the implementation of the CBE Directive in Member States?

The stakeholder consultation carried out by the Evaluation team confirmed that there are no substantial legal problems with the implementation of the CBE Directive and that the implementation of the CBE Directive does not pose specific legal challenges. This was confirmed by 100% of the consulted stakeholders representing Member States' authorities in charge of the implementation of the CBE Directive.

The main problems with the implementation of the CBE Directive were identified in the delay in transposition and implementation by several Member States and that still too few of them used the EUCARIS/CBE application at the time of this report.

While the CBE Directive had to be implemented by 25 EU Member States by 7 November 2013 and by three EU Member States³¹² by 6 May 2017, in 2015, only 18 EU Member States allowed other Member States' national contact points access to their data relating to vehicles, owners and holders of the vehicle in question, with the power to conduct automated searches. Seven EU Member States were still not compliant with the legal provisions from the CBE Directive, two years after the legal deadline for transposition, therefore preventing the 18 other compliant EU Member States from accessing their data related to vehicles, owners and holders of vehicles.

Three of these countries, i.e. IT, LU and SI, were progressing towards implementation while no initiative was initiated in the four other countries, i.e. CY, CZ, FI and PT. SI and LU were indeed in the testing phase while in IT the final decision of the competent ministry was pending, following their successful completion of the implementation test with RDW/NL. Regarding the other countries, CY admitted having no interest in the EUCARIS/CBE service, CZ gave priority to the implementation of another application, FI

³¹² As explained above, on EU Justice and Home Affairs (JHA) matters, DK, IE and UK indeed have the right to opt-out any measures, which they did for the CBE Directive. When the Directive 2015/413 facilitating cross-border exchange of information on road-safety-related traffic offences was adopted, the legal basis moved from JHA to transport. The opt-out system was therefore no longer valid. The three countries now have until 6 May 2017 to transpose the legislation at national level.

and PT have not been able to build up a CBE connection into EUCARIS yet (in the case of PT, no application has been built at all on EUCARIS).

The main reasons for the refrain from implementation of EUCARIS/CBE application on time are primarily political (not a top priority in the political agenda for some public administrations).

In addition, even though, as previously mentioned, 18 countries allowed other Member States' national contact points access to their data relating to vehicles, owners and holders of the vehicle in question, with the power to conduct automated searches, they did/do not necessarily all perform outgoing searches or sometimes only did/do so in specific countries. For instance, while the NL received requests from AT, BE, BG, DE, ES, FR, HR, HU, LT and PL, they only made requests to BE, DE and FR (in 2016). Moreover, NL did not receive any request from EE, EL, IT, LV, MT, RO, SE and SK since those countries were/are not or were/are barely using the EUCARIS/CBE application.

In addition, the EUCARIS/CBE application was and is still not used at all by EE, MT, RO and SE for outgoing searches.

As a result, there is space for improvements in the number of bilateral, but also unilateral, exchange of information. The above situation implies that there were still in 2015 (and there are still in 2016) drivers residents in some countries of EU that could not/cannot be fined for offences committed in other Member States because their MS of residence did/does not allow access to its data related to vehicles, owners and holders of the vehicle. In addition, there are countries where non-resident drivers can still infringe road traffic rules since those countries are not likely to follow-up the offences detected automatically against non-residents (i.e. SE).

The team identified other problems that are not strictly related to the implementation of the CBE Directive, but are related to the way some Member States can reap the benefits of the implementation of the Directive (see reply to Evaluation question 6) and have partially caused the above listed delays in the implementation of the CBE Directive.

Indeed, few Member States have complex liability rules that require the identification of the driver as a precondition for issuing a fine. Thus, while those Member States can implement the Directive, giving access to authorities of other Member States to national VRD, they cannot impose fines on the owner of a foreign registered vehicle simply using the information to which they have access under the CBE Directive and need further assistance by enforcement authorities of the Member States of residence in order to first identify the driver and then issue a fine. This is due to the specificities of their legal system that does not allow for the issue of a fine against the owner of the offending vehicle.

Against this background, authorities refrain from sending identification requests that can be ignored by the owner of a vehicle resident in another Member State and have no legally binding nature in the Member States for the offence.

This implies that some Member States concretely grant access to data related to vehicles, owners and holders of the vehicle registered in their State but do not ask for access to the same data in other Member States and simply do not follow-up offences committed by non-residents.

6. Which factors have hindered the achievement of the general objectives of the CBE Directive?

At the outset, it should be pointed out that the Evaluation team believes that it is too early to state whether the Directive achieved its general objectives. The Directive has been first implemented only in 2014 and only in 2015 by many Member States, therefore its impact on road safety and enforcement cannot be accurately measured as there is not enough experience with its implementation. However, the implementation of the CBE Directive might have led to a reduction of fatalities involving non-residents.

That said, the Evaluation team identified factors that might hinder the achievement of the CBE Directive's general objectives, i.e. reducing road fatalities and contributing to ensuring equal treatment of drivers. These factors are:

- The late implementation of the latter by many Member States of the EU. Many Member States legally transposed the CBE Directive but de facto did not implement it, to the extent that they are not connected to EUCARIS and prevent other Member States from accessing their data related to vehicles, owners and holders of vehicles.
- Features of MS' regimes of liability for road traffic offences. Indeed while the majority of Member States' enforcement authorities can issue fines for road traffic offences based on information concerning the owner of the vehicle, authorities of few others EU MS need to identify the driver of a vehicle in order to issue a fine. This implies that identifying the driver is a precondition to issue a fine. As the Directive only allows for the exchange of VRD, such Member States cannot obtain, through the exchange mechanism put in place by the CBE, all the information they need to issue a fine. As a consequence, such Member States are not able to follow-up road traffic offences committed on their territory by non-residents unless the current EU legal framework is amended. Thus, they are not using the CBE Directive in order to follow-up road traffic offences.
- Lack of mechanisms of cooperation among authorities of Member States to facilitate the serving of documents to alleged non-resident offenders and the identification of the drivers. A hindering factor of the CBE Directive impact is that there are no EU mechanisms of cooperation among enforcement authorities that allow authorities of Member States to make binding requests of assistance to the authorities of other Member States in investigations concerning road traffic offences. Notably, based on the replies received from our consultation it appears that if the address of the offender (as resulting from the VRD provided by the State of registration of the vehicle) is not correct, the Member State of the offence has no means to trace the correct address of the offender in order to send him a request to pay the fine. In addition, there are no specific mechanisms of cooperation allowing Member States' enforcement authorities to seek the assistance of enforcement authorities of other Member States in the investigations concerning the identification of the driver of the offending vehicle³¹³.

The above factors might affect the credibility of cross-border enforcement of sanctions for road traffic offences and this lack of credibility might hinder the impact of the CBE Directive on the level of compliance with road traffic rules and, consequently, prevent the

³¹³ As explained above, this is a matter that concerns only some EU Member State whose rules set the identification of the drivers as a precondition to issue a fine.

CBE Directive from achieving its full potential. In addition, such factors are likely to prevent a consistent enforcement of road traffic rules, as, some Member States might in the future continue to enforce road traffic offences detected automatically only against their own residents and not against non-residents, since they cannot legally issue a fine if the driver of the offending vehicle has not been identified.

7. To what extent does EUCARIS contribute to the effective implementation of the CBE Directive, including equal treatment of resident and non-resident offenders?

The potential of the EUCARIS/CBE application is evaluated as significant to ensure the equal treatment of resident and non-resident offenders, since it may allow EU Member States to track more than 50% ³¹⁴of the automatically detected offences committed by non-resident offenders in the EU, in particular speeding offences, which are among the main causes of deaths and serious injuries on EU roads. One can assume that the target aimed at by all EU countries over years is the follow-up through EUCARIS of 100% of automatically detected offences.

Moreover, the **EUCARIS information system guarantees a secure and confidential exchange of specific vehicle registration data**, due to its compliance with the security provisions of Article 4 and with the data protection provisions of Article 7 of the CBE Directive.

Furthermore, based on the results of the comparative analysis, **EUCARIS/CBE application presents the lowest Total Cost of Ownership (TCO)**³¹⁵, in comparison with two other systems with similar business purpose and characteristics (ERRU and RESPER). While the TCO of the EUCARIS/CBE application was estimated to amount EUR 0.366m between 2013 and 2016, it was estimated amounting up to EUR 1.568m and EUR 1.155m respectively for ERRU and RESPER for the period 2013 – 2017.

Additionally, based on the results of the satisfaction survey, **the users of EUCARIS/CBE application seem to be strongly satisfied with the application**. In fact, not only do they not want to replace the EUCARIS/CBE application by another system, but **they are also keen to recommend the application within their Member State to exchange VRD for other purposes**. Such application indeed allows them to save time while answering to their needs. The reporting functionality of the application also facilitates Member States' compliance with their obligations, as laid out under Article 6 of the CBE Directive.

Also, even though outgoing searches are not always successful and may result in failure to get results on the non-resident offenders, **the number of failed searches tends to remain low and to progressively decrease**. Taking into account the total number of failed searches performed by BE, FR, HR, HU, NL and PL, out of the total number of

³¹⁴ Based on the findings from Section 6.2.5 the EUCARIS/CBE application allows to track more than 50% of the automatically detected offences committed by non-resident offenders in the countries for which the Contractor gathered data.

³¹⁵ The TCO of an information system defines the total estimated cost to develop the system, to put it into production, to operate it, to support it, to maintain it and, to phase it out at the end.

searches conducted in 2015, on average, **less than 10% of the searches performed have resulted in a failure** (7.43%), which is assessed as rather low.

It should also be noted that before EUCARIS, road traffic offences committed by non-resident offenders were only sporadically tracked by EU Member States. While a few bilateral agreements existed between Belgium and the Netherlands or Germany and the Netherlands, most exchanges of VRD were paper-based and therefore occasional. In this regards, resident and non-resident offenders could not be considered as equally treated before the implementation of the CBE Directive by EU Member States. The CBE Directive largely contributed to the equal treatment of EU citizens on this matter.

One should also highlight that before the CBE Directive, some Member States were already exchanging VRD, based on bilateral agreements (e.g. Germany and the Netherlands, Belgium and the Netherlands); however these were targeted to specific segments of non-resident offenders (i.e. these having a vehicle registered in a country bound by the agreement) and were therefore not treating EU residents in an equal manner. The CBE Directive allows for the equal treatment of all EU citizens equally.

However, as previously mentioned, **still too few Member States had implemented and were using the EUCARIS/CBE application at the time of the Report.**

Moreover, outgoing searches were not performed by all the 18 EU Member States for which the application was operational in 2015. In fact, five EU Member States were not using the EUCARIS/CBE application for outgoing searches.

Furthermore, in these countries³¹⁶ using EUCARIS/CBE application for automated searches, it appears that less than half of the total number of offences committed by non-resident offenders are followed by a search with the application, except in the NL where almost all offences were followed by a search in 2015. This result is assessed as low considering that the application has now been in use for at least two years in some of those EU Member States.

8. To what extent could the development of comparable methods, practices and minimum standards for automatic checking equipment improve the impacts achieved by the implementation of the CBE Directive?

Different practices for automatic checking hinder the impact of the CBE Directive to the extent that many Member States do not detect automatically a significant number of offences covered by the CBE Directive as they have a very low number of automatic equipment installed compared to the length of their roads. Consequently, the mechanism put in place by the CBE Directive is not greatly useful for Member States that do not automatically detect road traffic offences.

For example, the number of offences detected in France in 2014 and followed-up by France via EUCARIS under the CBE Directive was around 1,400,000. This number was more than 40 times higher than the number of overall offences committed by non-

³¹⁶ Please refer to the section on the 'level of use of EUCARIS/CBE application.

residents and detected in the same year in some other Member States (see Section 6.2), having, in 2014, a small number of fixed camera installed.

Such differences show that the deployment of a large number of automatic checking equipment and their efficient use in all Member States could increase, in countries the detection and follow-up of offences committed by non-residents by at least 10 times. It is impossible to estimate what would be the impact of an improvement of practices concerning automatic checking equipment, because there are no figures on the number of non-residents driving in MSs which have a small number of automatic equipment in use. However, a simple comparison of offences detected in MSs with efficient systems shows that the systematic use of automatic checking equipment could substantially improve the enforcement of road traffic rules against non-residents.

Different standards for automatic checking equipment might compromise, in the future, the application of the principle of mutual recognition of penalties to sanctions for road traffic offences. This could, in theory, happen when the CBE Directive is implemented in all Member States and the courts of Member States with strict standards for automatic checking equipment will be requested to enforce sanctions imposed by authorities of other Member States on the basis of evidence produced by automatic checking equipment that would not comply with the standards of the State where the sanction has to be enforced.

In this context, ensuring that Member States' standards for automatic checking equipment and practices for the automatic enforcement of road traffic rules converge could substantially improve the impacts of the CBE Directive, or avoid that its impact on cross-border enforcement is hindered.

On the one hand, more effective automatic enforcement of road traffic rules will ensure the detection of more offences committed by non-residents and the identification/sanctioning of a higher number of non-resident offenders.

On the other hand, ensuring equivalent standards for automatic checking equipment used in all Member States could strengthen the mutual trust between the courts of Member States and prevent the hypothetical risk of certain courts' refusal to recognize sanctions imposed by authorities of other Member States on the ground that the equipment used to detect the offence was inappropriate, and thus the alleged offender did not have a fair trial³¹⁷ in the Member State of the offence.

This Evaluation shows also that variation exists within the methods used to detect automatically road traffic offences across Member States. In some Member States it is possible to detect speeding offences not only measuring the instantaneous speed but also the average speed on a road's segment. To this end in some Member States instantaneous speed camera are complemented by section control devices (see Section 6.1). However, in other Member States (i.e. Germany, Finland) legal and practical obstacles render problematic the use of section control devices for the average speed measurement.

Concerning the use of such different methods, the Evaluation team concluded that it does not appear that such variation is a factor affecting the implementation of the CBE Directive or preventing the latter from improving road safety.

³¹⁷ The right to a fair trial is a fundamental right. Lawyers from Member States could start invoking such principles in national litigation and block the application of the Framework Decision on the application of the principle of mutual recognition to financial penalties.

In addition, the Team found that different methods to measure speed and detect speed offences are a consequence of the legal liability rules in force in Member States: i.e. some Member States require the identification of the driver as a precondition to issue a fine and others do not. In the Member States where the identification of the driver is required in order to issue a fine, a section control device would need to take a picture of the number plate of the vehicle and of the driver twice, once the vehicle enters the relevant section of the motorways and once it exits. In turn this implies taking pictures of individuals that have not, (or have not yet) committed an offence and this may conflict with the constitutional principles of such States.

In addition, the cost of using section control devices is identified as a major obstacle to the deployment of such devices in Member States that require the identification of the driver as a precondition to issue a fine for a road traffic offence.

In this context, it appears that ensuring a convergence of methods for measuring speed at this stage could be seen as a non-justified interference in Member States' enforcement policy choices. Furthermore, it is also questionable to what extent such convergence is achievable since Member States' liability rules for road traffic offences vary substantially.

9. To what extent could the follow-up procedures between competent authorities of the Member States for the transmission of the final decision to impose a financial penalty as well as the recognition and enforcement of the final decision improve the impacts achieved by the implementation of the CBE Directive?

The key barriers to the effective cross-border enforcement of sanctions and penalties relating to road traffic offences are linked to:

- Difficulties in serving documents to non-resident offenders (e.g. to the owner of a vehicle when data in the VRD are not updated);
- Costs of the transmission of decisions imposing penalties (including translation of the decision);
- Failure in mutual recognition of decisions due to the different nature of the offences in national law and the impact of such qualification on applicable procedures.

One further difficulty (which concerns only Member States whose liability rules foresee the identification of the driver as a precondition for issuing a fine) is the lack of mechanisms allowing enforcement authorities of the Member State of the offence to identify non-resident drivers.

In this context, one of the main problems that might affect the effectiveness of the CBE Directive is the lack of appropriate EU rules on follow-up procedures concerning cross-border enforcement of road traffic rules. This has an impact, according to most of the stakeholders consulted, on the rate of enforcement of sanctions for road traffic offences if the alleged offender refuses to pay. Thus, the Evaluation team believes that tailored follow-up procedures to the exchange of information under the CBE Directive could substantially improve the impact of the CBE Directive.

To strengthen the practical impact of the exchange of information systems in place, the Team advises for the introduction of a second enforcement step in order to ensure that the mechanism put in place by the CBE Directive maintains its deterrent effect.

Notably, as explained in Section 6.3 the current rate of fines' payment for road traffic offences under the CBE Directive is on average 50%, taking into consideration that in some Member States such as Hungary is below 40% and in some other reaches 75%. This rate could be lower as we have data only for some Member States.

This implies that around 50% of the offences followed-up under the CBE Directive are enforced because the offender pays voluntarily, while the remaining 50% needs to be enforced by means of a decision issued by the authority of the State of the offence which calls for mutual recognition in the State of residence of the offender as well as for execution in such State.

Furthermore, currently, the rate of enforcement of sanctions for road traffic offences is 0 under the existing legal tool allowing for the mutual recognition of financial penalties in the EU, i.e. the Framework Decision 2005/214/JHA (see Section 6.1). The reasons for such a low rate are several. On one hand, the Framework Decision's mechanism is too expensive and not effective for the cross-border enforcement of financial penalties of a relatively low value. On the other hand, some Member States do not manage to reach the offender and serve documents to the offender. Thus, they cannot issue a fine. Finally, some Member State cannot issue a fine if the owner of the vehicle does not refer who the driver is to the authorities of the State of the offence.

Against this background, the Team considered that the adoption of specific legal tools to improve the cooperation between enforcement authorities of Member States with respect to investigations concerning road traffic offences may facilitate the successful enforcement of offences that are followed-up under the CBE but not successfully enforced.

Finally, the adoption of cooperation mechanisms between enforcement authorities of Member States and notably of forms of assistance aimed at identifying the driver of the offending vehicle, could ensure the follow-up of a road offences detected in those Member States where the identification of the driver is a precondition to issue a fine, and, that, as explained, are currently not followed-up by such Member States. The number of such offences is not known, but it could amount to 50,000³¹⁸.

³¹⁸ This is estimated calculating the 5% of speeding offences detected in Finland in 2014. This amounts to 15000. It is thus a conservative figure considering that the CBE offences are 6 and that we are referring to more member States and not only Finland.

10. What are the impacts on the awareness of citizens on rules in force in EU Member States in the field covered by the CBE Directive?

As explained in relation to Evaluation question No 2, the CBE Directive requires the Commission to make available on its website a summary (in all official languages of the institutions of the Union) of the rules in force in Member States in the field covered by the CBE Directive and that Member States shall provide information on these rules to the Commission. It also requires Member States to provide road users with the necessary information concerning the applicable rules in their territory and the measures implementing the CBE Directive in association with, among other organizations, road safety bodies, non-governmental organizations active in the field of road safety and automobile clubs.

In order to implement the above provisions, the European Commission has created a specific webpage providing the relevant information concerning road traffic rules in force in all the Member States of the EU, i.e. the Commission Going Abroad webpage. Thus, the entry into force of the CBE Directive facilitated for all EU citizens the access to information concerning road traffic rules in force in all EU Member States since such information has been made available on-line in at least one language that each EU citizen able to drive is likely to understand.

Based on the information received, in 2014 the Going Abroad page received 227,317 visits, 31% of visits to the Road Safety section of the mobility and transport site and 4.5% of visits to the whole mobility and transport site. The average number of visits rises in June and July, i.e. two months when EU drivers are likely to go on vacation abroad. Thus, most likely road users consult the above page in order to find information on rules in force in the Member States where they intend to travel.

The majority of stakeholders, representing mostly enforcement authorities and road safety research centres or road safety NGOs indicated the Going Abroad page and the information provided on such page as a tool providing the necessary amount of information to inform road users of the rules in force in other Member States.

The European Commission has also created a specific application aimed at providing information on road safety rules, the Going Abroad App.

Based on the information provided by the relevant services of the European Commission, the number of downloads is growing at a constant pace with around 30-50 downloads per day and peaks of 150-300 downloads which follow specific initiatives aimed at promoting the application³¹⁹. The total number of downloads amounted to 86,538 in a period ranging from June 2014 to August 2015.

The above trends seem to show that an increasing number of road users accessed information concerning road traffic rules in force in other Member States and that they perceive the need to be informed about rules in force in other Member States where they intend to travel.

As to national websites, the number of visits they receive varies from 1000 per year to 1500 per year. This information is however available only for Belgium and France, the only Member States which provided data.

³¹⁹ Information provided by the EC Commission.

Based on data provided by France and Belgium and by the Commission the Evaluation team estimated that, on a yearly basis, at least around 400,000³²⁰ road users in the EU are provided with information on road traffic rules to be complied with when driving abroad by means of dedicated online tools.

In addition, some stakeholders, including the European Transport Safety Council, referred that the implementation of the CBE Directive was matched in some Member States by information on the national press and campaigns which likely had an impact on road users' awareness of the need to comply with road traffic rules when driving abroad³²¹. This was the case for Belgium³²², Greece, Spain and Finland³²³.

In conclusion, the Team found that it is possible that the initiatives undertaken at the EU level under the CBE Directive and at the national level by some Member States in order to raise road users' awareness on rules in force in EU Member States in the field covered by the CBE Directive, have to some extent increased it.

The Team also found that at least 400,000 road users are likely to be better informed now, than before the implementation of the CBE Directive about the road traffic rules in force in other Member States. This estimate is very conservative as data on visits to relevant web pages have been provided only by the Commission and two Member States and as it is likely that information obtained by a road user are shared with family members or trip mates.

However, the possibility to quantify the impact of the CBE Directive on awareness is affected by the following limitations:

- I. First, the stakeholders consulted could not provide data allowing for the quantification of visits that national websites and web pages (advertising the entry into force of the CBE Directive and its impact on enforcement) received on a yearly basis in 2014 and 2015.
- II. Second, road users did not take part in the consultation carried out within this Evaluation and thus this Evaluation could not assess whether road users perceive themselves as more aware of the need to comply with the road traffic rules in force in Member States were they do not reside.
- III. there are no studies assessing the impact of awareness measures of the CBE Directive on the behaviour of non-residents drivers.

Thus, the impact of the CBE Directive should be further assessed by means of a survey targeting road users.

7.6 Sustainability

³²⁰ This estimate does not take into consideration that information got by one member of a household might be spread to the other members and thus the number of road users informed could be two or three time greater.

³²¹ Reply by FIA (Federation Internationale de l'Automobile).

³²² Reply provided by the Belgian Ministry of Transport.

³²³ Reply by University of Aten, Spanish Ministry of Interior, Finnish Minister of Interior.

11. Would the application of the CBE Directive without any modifications or follow-up initiatives be still appropriate in 5 years? If not, which aspects need to be reinforced?

The Evaluation team concluded that the impact of the CBE Directive on road safety could be affected by the fact that the CBE Directive does not target issues pertaining to the enforcement phases that follow the exchange of information aimed at identifying the owner of the offending vehicle. This is demonstrated by the opinion of most of the stakeholders consulted who refer that existing mechanisms do not work and that, in the future, the level of compliance might decrease because road users will realize that penalties imposed by other Member States tend to not be enforced.

As explained in our reply under Evaluation question No° 9, the rate of enforcement of financial penalties for road traffic offences is low.

A measure to follow-up procedures should address issues that concern also substantive legal issues affecting enforcement and, notably, differences in Member States' systems of liability regimes for road traffic offences. As explained above, these differences, if not addressed, could lead to a situation where some Member States cannot issue fines against non-resident drivers and thus are precluded all the benefits stemming from an enhanced EU system of mutual recognition of sanctions for road traffic offences.

This could be done without recurring to the harmonisation of road traffic rules, which from a political standpoint, is an unrealistic policy option.

The stakeholders' consultation did not identify issues in the field of road safety that would require for a change in the CBE Directive in order to maintain its appropriateness. Indeed, stakeholders were specifically consulted on this aspect but could not provide relevant information or identify possible significant changes in the road transport sector that could require for a modification of the CBE Directive.

According to the Evaluation team, one possible change that could trigger the necessity to amend the CBE Directive may be the development and concrete use in many Member States of automatic devices for the detection of particular road traffic offences, such as dangerous overtaking or not keeping a safe distance which are currently not within the scope of the CBE Directive.

Based on the findings of the Evaluation team, such developments could require the widening of the scope of the CBE Directive, in order to ensure the equal treatment of resident and non-residents road users.

Another change that could require for the modification of the CBE Directive is the fact that in 2017 UK will have to implement the CBE Directive.

In order to allow the UK to effectively follow-up offences committed by non-residents, it would be necessary to establish an EU-wide mechanism that compels the owner of a vehicle to identify the person driving such vehicle at the time when an offence was committed. An alternative solution could be to extend the scope of the Framework Decision on the mutual recognition of financial penalties to the offence consisting in failing to respond to an identification request from authorities of other Member States'. However, a legal analysis should address the extent to which such a solution would allow UK to actively implement the CBE Directive³²⁴.

³²⁴ UK Ministry of Justice refers that pursuant to UK law UK authorities cannot issue a fine for failure to respond to a binding request to identify the driver against a non-resident. It is worth pointing out that Poland has a legal system that is similar to the British one. However, Poland does send information letters to non-residents

7.7 Coherence

16. To what extent has the CBE Directive contributed to the improvement of road safety in the context of other factors/initiatives having effects on road safety (e.g. 3rd Driving Licence Directive)?

The CBE Directive has improved road safety by filling a legal gap concerning the lack of specific measures facilitating the cross-border enforcement of road traffic rules.

It complements other measures, such as the 3rd Driving Licence directive, as the latter tackles issues related to the driving skills of drivers and their knowledge of road traffic rules of their Member State when they obtain the right to drive. On the other hand, the CBE Directive addresses issues such as compliance with road traffic rules in force in Member States different from the one of residence and of awareness of rules in force in such other Member States.

In addition, as explained in Section 6.1, the CBE Directive complements a variety of other EU measures (addressing the technical features of vehicles, the safety management of road infrastructures, the efficiency of emergency systems in case of accidents, the competence and training of professional drivers) since the Directive pursues the same objectives, i.e. improving road safety; and since it addresses complementary issues to the ones addressed by such other measures.

Moreover, the provisions of the CBE Directive do not conflict with the provisions of other EU road safety measures and do not contain definitions that conflict with the definitions included in such provisions.

The CBE Directive has thus contributed to make the road safety framework more consistent to the extent that it addresses issues related to the enforcement of road traffic rules against non-residents, and notably the enforcement of sanctions for two of the offences that are among the major causes of road fatalities on EU roads, pursuing an objective, the reduction of fatalities, that is fully consistent with the objectives of the other, above mentioned, EU legal measures.

17. How far the specific objectives of the CBE Directive, i.e. to facilitate the enforcement of road traffic rules and to raise awareness of citizens on traffic rules, are synergic and complement each other?

The two specific objectives of the CBE Directive, i.e. to facilitate the enforcement of road traffic rules and to raise awareness of citizens on traffic rules, are fully synergetic and complement each other.

This assumption was confirmed by most of the consulted stakeholders and by all stakeholders who provided an opinion of the relations between awareness of road traffic

and implement the CBE Directive. The Team asked Polish Interior Ministry if Polish liability rules were hindering the possibility to issue a fine against a non-resident. The Interior Ministry confirmed that Polish authorities are following-up road traffic offences and sending information letters. However, they cannot issue fines against non-resident owners of vehicles to the extent that they do not have evidence that he was the driver. Thus, Poland is actively implementing the CBE Directive relying on the fact that non-resident owners pay voluntary the amount of the fine indicated in the information letter.

rules and the deterrent effect of enforcement, including road safety experts, as well as by existing literature on road safety³²⁵.

Indeed, it is acknowledged that in order to ensure compliance with road traffic rules and thus, to improve road safety, it is necessary, on one hand, to ensure effective enforcement and, on the other hand, to promote road users' awareness on road traffic rules in force and on enforcement mechanisms in place.

In addition, from a logical standpoint, if road users are not aware of the rules in force, they cannot comply with them.

Furthermore, if they are not aware that effective enforcement tools are in place, such tools will bear no deterrent effect.

It follows, that measures of awareness are necessary in order to ensure that enforcement bears the desired deterrent effect.

On the other hand, enforcement is necessary in order to ensure that the awareness of rules in force concretely influences the decisions of road users on how to behave on the roads.

Finally, based on the research carried out by the Evaluation team, all policies successfully addressing road safety included both measures improving enforcement methods and measures aimed at improving the awareness of road users³²⁶.

³²⁵ Legislation, regulation and enforcement to improve road safety in developing countries Contribution to the World Bank Seminar on Road Safety, Washington, 14-15 December, 1992 <http://www.swov.nl/rapport/D-92-05.pdf>.

³²⁶ See Strategic Framework for Road Safety, 2011 https://www.unece.org/fileadmin/DAM/trans/doc/2012/wp1/NatDev-2012_Strategic_Framework_for_Road_Safety.pdf; Insights into the Effectiveness of Road. See also the study by T. Blondiau, S. Rousseau, Safety Enforcement, 2013.

8. FINAL CONCLUSIONS AND RECOMMENDATIONS

Based on the above analysis, the Contractor concluded that the measures included in the CBE Directive **are relevant**.

The CBE Directive targets most of the offences that can be detected automatically and are likely to be committed by non-resident drivers. The same conclusions apply as to the scope of the CBE Directive in terms of awareness' measures. The provisions that require giving information on road traffic rules in force in Member States are, from a theoretical standpoint, necessary provisions in order to promote awareness to the extent that, as explained in Section 6.3, they facilitate the access of all EU road users to relevant information on road traffic rules and they require the provision of relevant information that enables road users to comply with road traffic rules.

However, the assessment of the full relevance of the information provided with regard to the actual information needs of road users was hampered by the fact that this Evaluation could not gather specific data on non-resident road users' information needs.

The CBE Directive **has an EU added value** because it put in place a mechanism for the exchange of information of VRD that is crucial in order to ensure the pursue of automatically detected offences committed with vehicles registered in other Member States. To achieve the same results as the ones achieved by the CBE Directive with other legal tools would have been nearly impossible considering: a) the number of agreements that Member States would have to sign in order to exchange the same type of data; b) the necessary time to ratify similar agreements in all Member States; and c) the possible outcomes of such agreements as well as the lack of transparency that some bilateral or multilateral agreements might entail as demonstrated by the fact that some agreements currently in force are oral while some others are not or poorly used for the follow-up of road traffic offences (such as the Agreement between Italy and Austria, or the Vienna Convention on Road Traffic, 1968).

The Evaluation also considers the CBE Directive as efficient, since not only the generated economic benefits prevail over the costs incurred on EU Member States to implement the piece of legislation, but it seems that no other alternatives to the CBE Directive would provide the same level of enforcement (and thus of road safety), while achieving the same benefits at a smaller cost (or greater benefits at the same cost).

The estimates show that **the revenues generated by the CBE Directive for FR, HU, PL and NL are already higher than the overall costs assessed for the EU28 to implement the CBE Directive**. The revenues so far amount to approximately EUR 36m³²⁷ while the costs related to the implementation of the CBE Directive for the EU28, including the costs related to the follow-up to VRD information exchange, was estimated at maximum EUR 7.8m over the last five years.

In addition, one should note that it would be impossible to achieve the same level of road safety protection using other methods of enforcement of road traffic rules. There are millions of road traffic rules' infringements on a yearly basis, thus an electronic exchange of data is necessary in order to follow-up such offences. An alternative to such exchange could be a direct access to VRD of vehicles registered in other Member States. However this would imply creating a single VRD database and harmonizing the way VRD are both gathered and stored and would also imply the allocation of responsibility to keep such

³²⁷ This is the sum of the lowest estimated revenues for NL (EUR 3.7m); FR (EUR 28m), HU (EUR 3.5m) and PL (EUR 0.8m).

VRD updated for the 28 MS. Even assuming there is the political will to do so, the Evaluation team concluded that the realization of such VRD would take longer than simply allowing an exchange of VRD.

Furthermore, other methods of enforcement such as enforcement in the State of residence of the offender based on a request by the Member State of the offence would probably not be as effective. Notably, this alternative would imply that enforcement authorities of the State of residence bring a case before the national authorities competent to issue a fine based on documents prepared in other languages as well as on legislation of other Member States.

Even though the costs related to the implementation of the CBE Directive by EU Member States is considered as rather small, **the Evaluation team maintains that it could be even smaller with a reduction of the administrative activities carried out by EU Member States.**

The compulsory reporting of EU Member States to the Commission, to a larger extent, and the submission of an information letter in the language of the registration document to the non-resident offender when a Member State decides to initiate follow-up proceedings, albeit to a lesser extent, indeed require that internal resources from EU Member States spend a significant amount of time for administrative activities, in order e.g. to prepare, conduct and follow-up internal and external meetings, retrieve and check information. The compliance of EU Member States with these two legal requirements, respectively related to Article 6 and 5 of the CBE Directive, could indeed be made more efficient. Even though **these articles are aimed at ensuring a consolidated view of road-traffic offences at EU level and at guaranteeing an equal treatment to all EU citizens to access information**, they still represent an implementation challenge for EU Member States

In this regards, the reporting of EU Member States to the Commission could be made faster if the reporting functionality of the EUCARIS/CBE application was further improved so as to report automatically to the European Commission the number of searches conducted, including the failed ones, as requested in Article 6 of the CBE Directive.

Also, while the Commission already provided a template (in all EU official languages) for the information letter in the Annex II of the CBE Directive, it could also make available to EU Member States additional tools to facilitate their compliance with Article 5 of the CBE Directive.

The Evaluation team considers that the CBE Directive is an **effective** tool as it has directly improved the cross-border enforcement of sanctions for road traffic offences and likely also the awareness of road users on road traffic rules in force in Member States. Thus, it has likely indirectly contributed to a reduction of fatalities and accidents on EU roads involving non-residents. The direct impact on fatalities and fatal accidents of the CBE Directive is impossible to measure due to the different factors that influence road safety trends and to lack of data concerning many EU Member States. However, a reduction of fatalities and fatal accidents involving non-residents in the period 2013-2014 and of the share of fatalities involving non-residents of all fatalities in most Member States that were implementing the CBE Directive in 2014 represents, for the Evaluation team, an indication of the positive impact of the CBE Directive on road safety albeit in combination with other factors, such as an improvement of the cross-border enforcement of sanctions for road traffic offences by 230% in 2015 compared to the situation before the implementation of the CBE.

The Evaluation team also concludes that **EUCARIS, the software chosen for facilitating the exchange of information, contributes to the CBE Directive's effective implementation.**

Even though still too few Member States implemented and were using the EUCARIS/CBE application to perform outgoing searches at the time of this Report, the potential of the EUCARIS/CBE application can be assessed as significant to ensure the equal treatment of resident and non-resident offenders, since it may allow EU Member States to track more than 50% of the automatically detected offences committed by non-resident offenders in the EU, in particular speeding offences, which are among the main offences causing death and serious injuries on EU roads. One can assume that the target of all EU countries is to reach up to 100% of automatically detected offences followed-up by a search with EUCARIS over a few years.

However, the full **effectiveness of the CBE Directive is hampered by temporary factors**, such as late transposition and implementation of the CBE Directive by many Member States, and **by more general factors**, such as the poor use of automatic checking equipment to detect road traffic offences in some Member States. Indeed, this poor use implies that a relatively small part of targeted offences are detected automatically and, thus, the mechanism put in place by the CBE Directive cannot be fully efficient. Other factors are related to the lack of effectiveness of tools ensuring the execution of sanctions for road traffic offences in the Member State of residence of the offender. A further factor is related to the fact that some Member States have a stricter driver liability regime and therefore do not carry out searches and do not pursue and sanction traffic offences committed by non-resident drivers.

Consequently, the Evaluation team concluded that the effectiveness of the CBE Directive might be affected in the long term by the fact that there are no existing EU-wide legal tools allowing for a smooth cooperation between enforcement authorities in investigations concerning road traffic offences and there are no EU tailored measures ensuring the mutual recognition of financial penalties for road traffic offences

Against this background, an improvement of the effectiveness of follow-up procedures to VRD exchange would allow the CBE Directive to continue to ensure that its impact on road safety is not hindered substantially by a decrease of its deterrent effect. If no action is taken, the likelihood of such reduction is high (**sustainability**).

The CBE Directive complements existing EU legislation on road safety, such as the Driving licences Directive³²⁸, and the many EU measures in the area of professional drivers and on vehicles as well as on vehicle type approval. It fills in a legal gap, which is related to the exchange of data which allows for the identification of the owner of the offending vehicle, increasing the transparency of the legal framework concerning the cross-border enforcement of road traffic rules and contributing to achieve a higher level of road safety.

In addition, the CBE Directive pursues two fully complementary specific objectives and notably facilitating the enforcement of road traffic rules and raising the awareness of citizens on road traffic rules. Thus, the CBE Directive **is coherent**.

In the light of all above, the Evaluation team formulates the following recommendations:

³²⁸ Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences, OJ L 403, 30.12.2006, p. 18-60.

Recommendation 1 – The Commission should consider to propose the narrowing of the scope of the CBE Directive in order for it to address only automatically detected offences or, in any case, those offences that do not require stopping a vehicle. However, given the political sensitivity of this issue, the Commission should assess the costs and benefits of such a proposal, taking into account the possible reaction that such a proposal could generate.

Recommendation 2 – Member States are encouraged to start implementing the CBE Directive. Member States that do not collect data on fatalities and accidents involving non-resident drivers and on offences committed by non-resident drivers are encouraged to systematically collect such data. They are also encouraged to systematically gather data on the number of controls carried out and of automatic checking equipment installed, in order to monitor the impact of the CBE Directive and of other enforcement practices on road users' behaviours. Finally, they are encouraged to advertise that impunity when driving abroad has come to an end.

Recommendation 3 – Taking into account its efficiency and effectiveness, primarily for tracking automatically detected offences committed by non-resident offenders such as speeding, failing to stop at a red traffic light and using a forbidden lane; Member States are encouraged to use further the EUCARIS/CBE application to perform outgoing searches. Member States are also encouraged to exchange VRD with more EU Member States, since the Evaluation highlighted space for improvement in the number of bilateral and even unilateral exchanges of information between Member States. The functionality of the application could also be further developed in the future so as to serve enforcement purposes (upon further analysis of stakeholder needs).

Recommendation 4 – The reporting functionalities of the EUCARIS/CBE application should be further improved to facilitate the reporting of Member States to the European Commission (Article 6 of the CBE Directive) since this task represents an administrative cost for public administrations.

Recommendation 5 – Member States should increase their use of automatic checking equipment in order to improve and maximize the detection of at least the following offences: speeding, failing to stop at a red light and use of a forbidden lane. The Commission should monitor the evolution of automatic enforcement of road traffic rules on EU roads, in order to promptly identify issues that need to be addressed.

Recommendation 6 – In the short term Member States are recommended to cooperate in investigations concerning road traffic offences and notably to set up forms of cooperation based on which enforcement authorities can ask for support to authorities of other Member States when there is a need to identify the driver of a vehicle with which an offence was committed.

Recommendation 7 – In the short term the scope of the Framework Decision 2005/214 on the application of the principle of mutual recognition to financial penalties should be clarified, in particular Article 7 on 'Grounds for non-recognition and non-execution'. The Commission should use its right as 'Guardian of the Treaty' to ensure correct implementation and application of EU law. A mapping exercise to identify the competent national authorities (Article 2) may be useful, in particular to identify Member States' courts competent for the review of sanctions for road traffic offences that can be qualified as courts having jurisdiction in particular in criminal matters in light of recent ECJ case law on the interpretation of the Framework Decision.

Recommendation 8 – Member States should take into consideration to elect a single central authority for the Framework Decision 2005/214, in order to allow the automatic transmission of incoming requests.

Recommendation 9 – In the long term, the Commission should propose measures aimed at the improvement of cross-border enforcement of road traffic rules. The proposals should be based on the findings of an impact assessment. The impact assessment should be joined with a legal preparatory study aimed at assessing the minimum procedural guarantees that should be ensured in proceedings for review of penalties for road traffic offences. The study should also evaluate the status of the right not to incriminate one-self in administrative proceedings in the EU legal order ³²⁹ (not covered by the future "DIRECTIVE on the strengthening of certain aspects of the presumption of innocence and of the right to be present at trial in criminal proceedings) and in all proceedings not leading to conviction in the EU legal order³³⁰. This should be done in order to assess whether EU measures could require Member States to introduce measures aimed at compelling owners of vehicles with which an offence was committed to identify the driver, further to a request of a foreign authority.

Recommendation 10 – The EU should consider allocating some funds to the cooperation of enforcement/police authorities. Some of such funds could also be employed for initiatives aimed at sharing the best practices among enforcement staff.

Recommendation 11 – Member States are invited to explore the possibility to use EU funds for the development of tools aimed at facilitating the translations of information letters under the CBE Directive and of certificates for which transmission is required under the Framework Decision, in order to request the mutual recognition and execution of decisions imposing financial penalties.

³²⁹ The status of such principle in the EU legal order will be clarified by EU legislation which will be adopted in the following months (Proposal for a Directive of the European Parliament and of the Council on the strengthening of certain aspects of the presumption of innocence and of the right to be present at trial in criminal proceedings available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52013PC0821and http://www.europarl.europa.eu/sides/getDoc.do?pubRef =-//EP//TE XT+REPORT+A8-2015-0133+0+DOC+XML+V0//EN>). The Directive will apply to criminal proceedings and not to administrative proceedings.

³³⁰ See the case law of the ECHR on the application of such principle in the field of proceedings concerning road traffic offences (European Court of Human Rights Cases/2007/O'Halloran and Francis v United Kingdom (App nos 15809/02 and 25624/02) - [2007] ECHR 15809/02).

9. ANNEXES

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