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on the evaluation of cross-border exchange of information on road traffic offences

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1. INTRODUCTION

This evaluation covers the system set up by Directive 2015/413/EU facilitating cross-border exchange of information on road-safety-related traffic offences¹ ('CBE Directive'). The system makes it possible for Member State authorities to access each other's vehicle registers via an electronic tool. This means that the Member State in which a road traffic offence was committed can access information from the Member State in which the vehicle is registered, in order to identify the presumed offender. Such access is useful in cases where a traffic offence is detected via automatic checking equipment or without stopping the vehicle, with no possibility of enforcing the sanction on the spot.

Under Article 11 of the CBE Directive, the Commission is obliged to assess specific aspects of the cross-border enforcement of road traffic rules, including Member States' application of the Directive, and submit a report to the European Parliament and the Council by 7 November 2016. To comply with this obligation, the Commission, supported by external consultants, has evaluated whether the CBE Directive:

- is effective and efficient in reaching its objectives to improve road safety and facilitate the cross-border enforcement of sanctions for road traffic offences;
- is relevant to the identified needs;
- is coherent internally and with other EU policies;
- provides added value at EU level;
- has effects that are sustainable.

2. BACKGROUND TO THE INITIATIVE

Directive 2011/82/EU facilitating the cross-border exchange of information on road safety related traffic offences² was adopted on the basis of Article 87(2) TFEU i.e. the police cooperation legal basis that allowed the UK, Denmark and Ireland to opt out of applying the Directive. The European Court of Justice judgement of 6 May 2014 on Case C-43/12³ annulled Directive 2011/82/EU on the grounds that it was not valid to adopt it based on the police cooperation legal basis, and the Directive should have been adopted based on the transport legal basis, as originally proposed by the Commission (Article 71(1)(c) of the Treaty establishing the European Community, now Article 91 of Treaty on the Functioning of the European Union). The judgment maintained the effects of Directive 2011/82/EU for a period of time not exceeding 12 months from the date on which the judgement was delivered. The new Directive 2015/413/EU was adopted in March 2015 based on the modified legal basis, without any amendments to the substance of the annulled Directive and covering all Member States.

¹ Directive (EU) 2015/413 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

² 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

³ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62012CJ0043>

2.1. Baseline situation

According to the 2008 impact assessment accompanying the proposal for the CBE Directive,⁴ non-resident drivers accounted for approximately 5 % of road traffic in the EU. Approximately 15 % of detected speed offences were committed by non-resident drivers/foreign vehicles and non-resident drivers are three times more likely than resident drivers to commit traffic offences. In some transit countries, such as France, speeding offences committed by foreign vehicles reached approximately 25 % of the total number of speeding offences committed, with the figure going up to 40-50 % during peak tourist periods. Furthermore, speeding was responsible for 29 % of all road deaths; drunk driving was responsible for 25 % and not using a seat belt for 17 %. The proportion of foreign vehicles involved in accidents ranged between 1 % and 21 % (on average 3 % of vehicles involved in road accidents in the EU-25 were foreign registered).⁵

One of the identified reasons for why non-residents were more likely to infringe road traffic rules was that non-residents perceived that they were less likely to be sanctioned when driving in a Member State where they did not reside and that in any case they were less likely to face judicial action if they did not pay fines imposed by foreign authorities.

The lack of EU-wide mechanisms that make exchanging vehicle registration data possible meant that most road traffic offences detected automatically or without stopping the vehicle, i.e. offences not subject to on-the-spot-fines, were not followed up because Member States' enforcement authorities were often unable to identify the owner/holder of the foreign vehicle and consequently impose a fine.

It was in theory possible to use electronic information system EUCARIS⁶ to exchange vehicle registration data under juridical cross-border cooperation (Council Decisions 2008/615/JHA and 2008/616/JHA – the Prüm Decisions⁷). However, Member States did not exchange vehicle registration data for minor offences, which most road traffic offences are. This was due to the fact that the Decisions impose very strict and administratively demanding procedures, targeting the investigation of serious cross-border crimes, including terrorism.

To overcome the problems mentioned above, some Member States made specific bilateral agreements on exchanging vehicle registration data, mostly with their neighbours. This made it possible to identify and penalise non-resident offenders, though the cooperation network remains rather patchy.

According to the external evaluation study,⁸ France had no agreement with neighbouring Member States. Germany and Italy had an agreement covering document delivery but not

⁴ Commission staff working document, COM(2008) 151. See also Consultation Paper, Respecting the rules, Better Road Safety Enforcement in the European Union, 6 November 2006 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

⁵ It is not clear from the impact assessment documents in what year(s) the data were collected.

⁶ European Vehicle and Driving Licence Information System

⁷ 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 and Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA, OJ L 210, 6.8.2008, p. 12. The Decisions aim to improve the exchange of information between the authorities responsible for the prevention and investigation of serious criminal offences. They set out provisions concerning: automated access to DNA profiles, fingerprints and specific vehicle registration data; supply of data in relation to major events; supply of information in order to prevent terrorism; other measures for stepping up cross-border police cooperation.

⁸ http://ec.europa.eu/transport/facts-fundings/evaluations/annual_en.htm

including mechanisms aimed at identifying the owner/holder of the vehicle with which the road traffic offence was committed. There is also agreement between Austria and Germany which contains specific provisions on strengthened mutual assistance and cooperation to identify the driver who committed road traffic offence.

The external evaluation study showed that, before the CBE Directive was implemented, vehicle registration data was most successfully exchanged between the Netherlands and Germany. The exchange was based on informal agreement which dates back to the 1990s and on national provisions allowing the Dutch authorities to provide Germany with vehicle registration data upon request in cases of road traffic offences, and vice versa. The Netherlands also exchanged vehicle registration data with Belgium, on a bilateral basis. In 2009-2014, these agreements made it possible to investigate approximately 500 000 road traffic offences per year.

The Czech Republic, Estonia, Romania, Lithuania, Slovakia, Poland and Spain were not part of any bilateral or multilateral agreements on the cross-border enforcement of sanctions for road traffic offences covering the exchange of vehicle registration data.

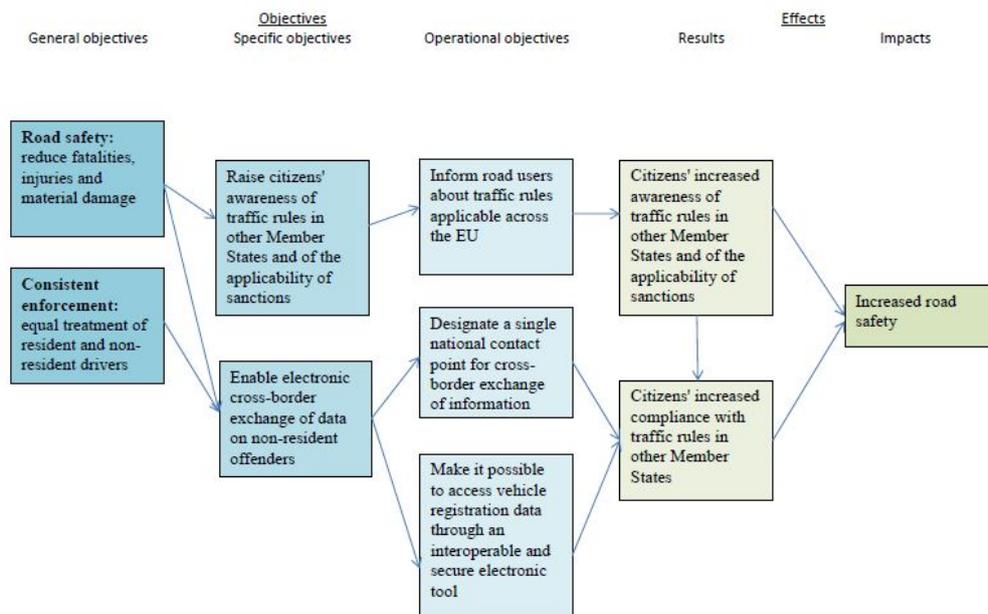
2.2. Description of the CBE Directive and its objectives

The CBE Directive was adopted to pursue two general objectives. The first one is related to road safety i.e. further reducing fatalities, injuries and material damage on European roads. The second one, perceived as an important element of the first one, is related to the consistent enforcement of sanctions for road traffic offences in the EU, in order to provide equal treatment for resident and non-resident drivers. The Directive also defines specific objectives under each of these general objectives.

The first specific objective is to facilitate the enforcement of road traffic rules through the cross-border exchange of vehicle registration data. The actions that will help reach this goal are: designating a national contact point for the cross-border exchange of vehicle registration data and granting access to relevant databases via an interoperable and secure electronic tool.

The second specific objective is to raise citizens' awareness of traffic rules and of the applicability of sanctions in all EU Member States, by providing information on the rules in force.

The components and objectives of the CBE Directive are summarised in the intervention logic diagram below:



More specifically, the CBE Directive covers the following eight road safety related traffic offences: (a) speeding; (b) failing to use a seat belt; (c) failing to stop at a red traffic light; (d) drink-driving; (e) driving while under the influence of drugs; (f) failing to wear a safety helmet; (g) the use of a forbidden lane; and (h) illegally using a mobile telephone or any other communication devices while driving (Article 2).

The CBE Directive envisages the use of an electronic information system which makes it possible for EU Member States to perform automated searches for vehicle registration data in order to identify the owner/holder of the vehicle with which a road traffic offence has been committed. It requires each Member State to designate a national contact point responsible for allowing other Member States' national contact points to search data related to vehicles (the full licence plates) and owners or holders of the vehicles in question (Article 4). All personal data must be processed in line with Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data (Article 7).⁹

Once the owner/holder of the vehicle or the person suspected of having committed a road safety related traffic offence is identified, the Member State in which the offence was committed decides whether to initiate follow-up proceedings. Article 5 of the CBE Directive details how the offence is to be communicated to the person concerned and provides a (non-obligatory) template of the letter to be sent. The letter should be drafted in the language of the registration document or in one of the official languages of the Member State of registration, in respect of the Charter of Fundamental Rights of the EU and in compliance with Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings.¹⁰ It should include all relevant information, notably the nature of the road safety related traffic offence, the place, date and time of the offence, the titles of the texts of national law infringed, the sanction and, where appropriate, data concerning the device used to detect the offence. A reply form should be included in this communication, to give the owner the opportunity to identify the driver of the vehicle if they were not the one driving when the offence occurred.

The CBE Directive also sets out rules on Member States' obligations related to reporting on the effectiveness of exchanging vehicle registration data (Article 6) and rules aimed at

⁹ OJ L 281, 23.11.1995, p. 31

¹⁰ OJ L 280, 26.10.2010, p. 1

promoting citizens' awareness by providing information on road traffic rules in force in other Member States (Article 8).

However, simply implementing the CBE Directive is not sufficient to ensure the cross-border enforcement of sanctions for road traffic offences. The Directive only covers some steps of the cross-border enforcement chain and especially the identification of the owner/holder of the vehicle concerned after a road traffic offence has been detected. Cases where the offender refuses to pay a financial penalty are covered by Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties¹¹, provided that the conditions laid down in the Framework Decision are met.

3. EVALUATION QUESTIONS

Table 1: Evaluation 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

¹¹OJ L 76, 22.3.2005, p. 16

Evaluation criteria	Evaluation questions
	in EU Member States in the field covered by the CBE Directive?
Sustainability	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	<p>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?</p> <p>13. What aspects of the implementation of the CBE Directive generate an unnecessary administrative burden and how could this be improved?</p> <p>14. Would it be possible to achieve the same level of road safety protection more efficiently by other methods of enforcement of traffic rules?</p>
Added value	<p>15. What are the advantages of an exchange of vehicle registration data at the EU level?</p> <p>16. In how far could the same or better results be achieved by bilateral or multilateral agreements between Member States?</p>
Coherence	<p>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)?</p> <p>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?</p>

4. METHOD

The evaluation work was carried out over 10 months (May 2015 — February 2016) and was supported by an external evaluation study. The evaluation builds on: literature reviews, surveys of relevant stakeholders (including Member State authorities), interviews, stakeholder meetings, data collection and analysis carried out by consultants, information provided to the Commission by Member States, and an open public consultation launched by the Commission. The information on road fatalities and fatal accidents comes from the CARE database.¹²

In general, the methodology was based on the collection of quantitative and qualitative data and a legal assessment of the following:

- implementation of the CBE Directive;

¹²http://ec.europa.eu/transport/road_safety/specialist/statistics/index_en.htm

- the cross-border enforcement of sanctions for road traffic offences in general and the implementation of Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties;
- existing case law concerning the impact of automatic checking equipment on the enforcement of sanctions, and legislation on standards for automatic checking equipment;
- the content of bilateral and multilateral agreements concerning the cross-border enforcement of road traffic rules.

More information on the procedure followed is available in Annex 1, information on stakeholder consultations is provided in Annex 2.

4.1. Limitations - robustness of findings

The desk research produced a substantial amount of information on the transposition and implementation of the CBE Directive at national level. However, the evaluation suffered from a general lack of stakeholder contributions of detailed data (particularly from national authorities). One of the reasons for this lack of data was the fact that Member States do not collect certain data (e.g. on the number of detected offences); another is gaps in data sets or the fact that implementation of the Directive started in 2014. Final data for 2015 were provided only exceptionally, since the data had not been processed by many Member States at the time of the evaluation. As an additional complication, in some Member States data are collected by local authorities and not shared with the central government. The lack of data has limited the quantitative assessment of results and impacts.

Where data were missing, case studies were developed based on data provided by the Member States where the requested information was available and on opinions of stakeholders involved in road safety. Additional calculations were made in order to estimate possible impacts at EU level. Although the assumptions were justified, there is a certain degree of uncertainty that is explained in more detail in the answers to the evaluation questions.

Some evaluation questions could not be fully addressed, as the required data were not available. In particular, the evaluation lacks information from citizens (road users/drivers) concerning the application of the CBE Directive due to low participation in the open public consultation. Therefore, for example the issue of awareness of road traffic rules in force could not be completely assessed.

As regards the assessment of the Directive's impact on road safety, approximately 30 % of Member States did not provide data on road fatalities and fatal accidents involving non-residents. Even less data are available for detected offences involving non-residents and for those committed by foreign vehicles in 2013-2015, including the number of such offences investigated via the electronic information exchange system (outgoing searches). A total of 13 Member States provided this data, with only 8 of them providing the data according to the type of offence (with gaps in data sets and not always covering every offence that falls under the Directive's scope). Due to the lack of data, it was not possible to obtain precise evidence on the scale of the problem, i.e. on the total number of detected road traffic offences covered by the CBE Directive or on the number of offences committed by non-residents/foreign vehicles and automatically detected (or detected without stopping the vehicle) in the EU. Comparing these data (if they were available) would give an idea of the effectiveness of national police authorities in pursuing non-resident offenders.

In most Member States, data on or estimates of the costs of implementing the CBE Directive and data on the revenue generated by fines paid by non-resident offenders are not available, which limits the possibilities for assessing the Directive's efficiency (Section 6.4.1.).

The same applies to the number of requests for recognising a decision on a financial penalty for a committed road traffic offence and to the number of mutually recognised and successfully paid financial penalties under Council Framework Decision 2005/214/JHA: the information is not available in most Member States (Section 6.2.7.).

5. IMPLEMENTATION STATE OF PLAY (RESULTS)

Member States were obliged to transpose the CBE Directive by 6 May 2015. Three Member States — the UK, Ireland and Denmark — have a derogation and can transpose the Directive by 6 May 2017. All other Member States have notified complete transposition of the Directive. Nevertheless, the preliminary findings of the transposition check show that the Directive's main provisions, i.e. the electronic exchange of vehicle registration data through national contact points (Article 4) and the content of the information letter (Article 5), are often transposed in a way that necessitates further clarification from Member States. Despite the fact that the annulled Directive 2011/82/EU had to be transposed by 7 November 2013, in most Member States the measures transposing the new Directive 2015/413/EU entered into force with delays (from a few months up to one year). This has caused delays in implementing the electronic information exchange system, which have limited the mutual exchange of vehicle registration data (see Section 6.2.3.).

As set out in Article 6 of the annulled Directive 2011/82/EU, Member States had to send a preliminary report to the Commission by 7 November 2014. Member States also had to send a comprehensive report (on the application of vehicle registration data exchange) by 6 May 2016 and every two years thereafter. Since the content of the preliminary report was not specified, the Commission requested that Member States provide the information as required for the comprehensive report, particularly the number of automated searches carried out by the Member State in which the offence occurred (reporting Member State), addressed to the national contact point of the Member State of registration (outgoing searches). Beyond the requirement, the Commission asked the Member States to provide available statistics on the offences covered by the CBE Directive, including the offences committed by non-residents/foreign vehicles. By the end of 2014, the Commission only received preliminary reports from Austria, Bulgaria, Estonia, Finland and Hungary. All other Member States (except the UK, Ireland and Denmark) delivered their reports by summer 2015, following a pre-infringement procedure launched against them by the Commission. In general, the Commission did not consider the reported data as adequately complete and the information received had to be substantially complemented by surveys and desk research.

The provision regarding the comprehensive report was kept in Article 6 of the new Directive 2015/413/EU, as the original transposition date of November 2013 fell before the annulment and Member States could have started implementing the Directive. By 1 June 2016, the Commission received reports from Austria, the Czech Republic, Germany, Estonia, Latvia, Lithuania, Romania and Slovenia.

Under Article 8 of the CBE Directive, the Commission must 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 the Directive. Member States must provide road users with the necessary information about rules applicable on their territory and the measures implementing the

Directive in association with, among others, road safety bodies, non-governmental organisations active in the field of road safety and automobile clubs. The Commission published the English version of these rules on its website (on the Going Abroad webpage¹³) in October 2013. The webpage became available in all EU official languages in April 2014. Since July 2014, a smartphone application has also been available. All Member States publish road traffic rules in force on the internet (in official journals).

The evaluation has made it possible to obtain data on Member States' current situation of:

- the number and proportion of road traffic offences committed by non-residents,
- the level of exchange of information via the electronic information system.

13 Member States provided data on road traffic offences for the years 2013, 2014 and/or 2015 (depending on the Member State — see Table 2 below). In the 10 Member States for whom data is available in 2015, the proportion of offences committed by non-residents is between 3 % and 22 %.

Table 2: Proportion of road safety related traffic offences committed by non-residents

	2013			2014			2015			Reference period
	Total number of offences	Number of offences committed by non-residents	Proportion of offences committed by non-residents	Total number of offences	Number of offences committed by non-residents	Proportion of offences committed by non-residents	Total number of offences	Number of offences committed by non-residents	Proportion of offences committed by non-residents	
AT	4999 600	999 920	20 %	4000 000	800 000	20 %	4000 000 ⁽¹⁾	657 466	16 %	01.07.2015 – 31.12.2015
BE	3663 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
LT	-	-	-	200 988	4 630	2 %	85 583 ⁽²⁾	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	8852 993	616 759	7 %	7 126 923	593 026	8 %	5 777 614	602 403	10 %	01.01.2015 – 31.10.2015
PL	3890 799	-	-	3 769 173	204 610	5 %	2 006 900	78 342	4 %	01.01.2015 –

¹³http://ec.europa.eu/transport/road_safety/going_abroad/index_en.htm

	2013			2014			2015			Reference period
	Total number of offences	Number of offences committed by non-residents	Proportion of offences committed by non-residents	Total number of offences	Number of offences committed by non-residents	Proportion of offences committed by non-residents	Total number of offences	Number of offences committed by non-residents	Proportion of offences committed by non-residents	
										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

(1) Estimate

(2) The respondent declared that a total of 68 466 offences were detected from 1 January 2015 to 31 May 2015, and that 8 222 offences were committed by non-resident offenders from 1 January 2015 to 31 August 2015. The total number was calculated as follows: $(68\,466/5) \times 8 = 85\,583$

Source: Grimaldi, Evaluation study on the application of Directive 2011/82/EU, 2016
Member States' comprehensive reports for 2016 (Article 6 of the CBE Directive)

In order to estimate the scale of the problem i.e. the total number of detected offences covered by the CBE Directive and committed by non-residents/foreign vehicles in the EU (2014), the following assumptions have been made:

The number of speed offences involving non-residents is estimated at 5 % of all speeding offences detected. This is a rather conservative estimate because the proportion of speeding offences involving non-residents is above 5 % in most Member States who provided data, and in some of them it is above 10 %, reaching 22 % in France. For each of the Member States who did not provide data, the number of detected speeding offences from a proxy was applied; the proxy must have provided data, be of a similar geographical size and be located in the same or comparable part of the EU (e.g. the data of France are applied to Germany,¹⁴ the data of Hungary are applied to Bulgaria, the data of Latvia are applied to Denmark). Consequently, it is estimated that in 2014 8 million speeding offences were committed by non-residents/foreign vehicles in the EU, which constitutes 80 %¹⁵ of all detected offences covered by the CBE Directive and committed by non-residents/foreign vehicles. Thus, the total number of detected offences covered by the CBE Directive and committed by non-residents/foreign vehicles in the EU is estimated at **10 million** for 2014 (the data in Table 2 show the total number of approximately 5 million non-resident offenders detected by Member States which provided the data for 2014; the Table indicates the total number of the offences slightly higher for 2015). Taking into account the figures above and assuming that in general speed offences constitute 80 % of road traffic offences covered by the CBE Directive, it appears that in total (residents + non-residents) approximately **200 million** road traffic offences covered by the CBE Directive could have been detected in 2014.

The evaluation also looked at Member States' use of the electronic information system EUCARIS to exchange vehicle registration data under the CBE Directive. According to the available information, 14 out of 25 Member States were connected to the system in 2014, and 18 out of 28 were connected in 2015. Based on data received from the Member States who

¹⁴Only the police authorities of Bavaria and North Rhine-Westphalia provided relatively complete data on road traffic offences, structured by type of offence. However, they did not provide any information on the number of such offences committed by non-residents/foreign vehicles.

¹⁵This is a rather conservative estimate, since in Belgium the proportion is 94 %, in France it is 98 %, in Hungary 84 %, in Latvia 86 % and in Poland 98 %.

actively used the system i.e. carried out outgoing searches (searches following offences committed on their territory) as presented in Table 5 (Section 6.2.5.), it appears that approximately **2 million** outgoing searches were carried out in 2015. This suggests that half of the total number of offences committed by non-residents were investigated using a search in the electronic information system. This is considered to be low because these Member States have been using the system for at least two years already. The Netherlands is an exception where almost all automatically detected offences were followed by a search in 2015. In general, however, the system’s potential is much higher. Each detected offence usually has to be investigated by the police and one can assume that the goal in coming years should be to follow up all of automatically detected offences (provided that all elements of the offence are established).

Table 3 below shows in detail the CBE Directive implementation in February 2016, with only 20 out of 28 Member States connected to the electronic information system. It is worth noting that not all of these Member States carry out automated searches in each other’s data (mutual/bilateral exchanges).¹⁶ In November 2016, the Directive is still not fully implemented with 23 Member States connected to the electronic information system.

Table 3: Exchange of vehicle registration data using EUCARIS, February 2016

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

Green box: Mutual exchange of vehicle registration data (active use/implementation of the CBE Directive)

Grey box: Unilateral exchange of vehicle registration data (response to incoming searches only)

← Searches carried out by the ‘column’ country in the ‘row’ country

Source: Grimaldi, Evaluation study on the application of Directive 2011/82/EU, 2016

¹⁶Theoretically, there can be a maximum of $28^2 - 28 = 756$ combinations of vehicle registration data exchanges between Member States. In February 2016, there were 79 bilateral and 50 unilateral exchanges, i.e. 20 % of all possible exchange combinations. This reflects the actual level of exchanging vehicle registration data under the CBE Directive.

6. ANSWERS TO THE EVALUATION QUESTIONS

6.1. Relevance

6.1.1. *Is the scope of the CBE Directive in terms of traffic offences adequate? If it is not, in which respect?*

The CBE Directive's scope appears to be adequate insofar as it covers the eight most important road safety related traffic offences. Offences such as speeding, failing to use a seat belt, drink-driving and the use of communication devices (distraction) are a major threat to road safety and are often committed by non-resident drivers. This view was supported by most stakeholders. However, the use of the electronic information system is less necessary if the vehicle needs to be stopped¹⁷ for the offence to be detected, since then the offender is identified on the spot. This is the case for drink-driving and driving while under the influence of drugs, where the driver must take an alcohol or drug test. However, maintaining drink-driving and driving under the influence of drugs in the Directive's scope is considered as appropriate, taking into account the specific objective to raise citizens' awareness of traffic rules and the applicability of sanctions in Member States.

On the question of whether to extend the scope of the CBE Directive, 6 Member States' authorities did not see the need to do so. On the other hand, 13 Member States' authorities would welcome the addition of other offences to the Directive's scope. Not all of these 13 Member States specified the same offences, but 9 of them mentioned at least one of the following additional offences: not keeping a sufficient distance from the vehicle in front, dangerous overtaking, and illegal or dangerous parking (which in theory could be detected automatically, but in many Member States is not). Moreover, two NGOs also supported the addition of at least one of the above-mentioned offences.

Some stakeholders proposed to add 'tolling' offences to the scope of the CBE Directive as this would facilitate the cross-border enforcement of sanctions for not paying a toll, especially in cases of free flow microwave or satellite tolling systems.¹⁸

Despite the relatively low proportion of offences related to not keeping a sufficient distance from the vehicle in front, dangerous overtaking and dangerous parking, it appears that, due to the increased use of automatic checking equipment, it may be useful to consider including these offences in the Directive's scope to ensure the equal treatment of drivers. Adding tolling offences to the Directive's scope, however, raises the question of its internal and external coherence, especially as regards the legal basis and main objective to improve road safety. The same applies to illegal parking linked to non-payment of municipal charges or taxes, and to the violation of municipal orders that are not related to road safety.

6.1.2. *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?*

Article 8 of the CBE Directive includes mechanisms that inform road users of the traffic rules in force in Member States where they do not reside in a language that they understand, and, ultimately, provides all EU citizens with access to information on road traffic rules.

¹⁷Some stakeholders mentioned that the exchange of vehicle registration data in such cases could be useful to verify/rectify the data in the registers. This is, however, not envisaged in the CBE Directive.

¹⁸This may also be relevant for the electronic vignette systems used for passenger cars in Hungary and Slovakia.

Moreover, Member States are obliged to increase awareness of the fact that there are mechanisms that make it possible to exchange vehicle registration data across borders and that sanctions will be imposed for road traffic offences committed abroad.

This implies that the CBE Directive sufficiently covers two crucial factors that influence driving behaviour — knowledge of the rules that the driver should comply with and an awareness that traffic laws will be enforced.

Member State authorities have not identified any shortcomings in the CBE Directive's provisions on awareness. However, drivers' and road users' views on what information they need, whether the information on road traffic rules in force is adequate and how the information is used are not available. Therefore, no conclusion can be drawn on the adequacy of the Directive's provisions to ensure citizens' awareness of the rules in force in different Member States.

6.2. Effectiveness

6.2.1. *What are the impacts on fatalities and accidents of the measures set out in the CBE Directive?*

As described in the intervention logic diagram (Section 2.2.), the CBE Directive is expected to improve Member State authorities' ability to identify non-resident offenders and increase non-resident road users' awareness of road traffic rules in force in other Member States. This should have a deterrent effect on non-resident road users, leading to better compliance with the rules. Greater respect for the rules i.e. better behaviour and fewer offences, should lead to fewer road fatalities and fatal accidents.¹⁹

In order to evaluate the Directive's effectiveness in leading to the expected impact on fatalities and accidents, the following information has been collected and analysed:

- the number of detected road traffic offences covered by the CBE Directive and committed by non-residents/vehicles;
- the number of detected road traffic offences covered by the CBE Directive and committed by non-residents/vehicles, investigated in 2013-2015;
- Member States' data and trends on the number of all detected road traffic offences covered by the CBE Directive;
- Member States' data on road fatalities involving non-resident drivers;²⁰
- Member States' data on fatal accidents involving non-resident drivers;²¹
- variation of the proportion of road fatalities and fatal accidents involving non-resident drivers in all fatalities and fatal accidents in Member States.

It was not possible to draw any conclusions concerning the impact that awareness of road traffic rules has on the behaviour of road users (see Section 6.2.8.). It is generally recognised, however, that in order to improve compliance it is necessary to improve road users' awareness of the rules in force.

¹⁹There is a theoretical method, including specific formulae, which makes it possible to quantify the impacts of speeding (change of speed) on road fatalities and accidents — the relationship between absolute speed and road accident rates, injury rates and fatality rates was developed by prof. Nilsson (1982) and updated by prof. Elvik (2009). However, application of the method requires speed measurement on specific road sections. The Commission is not aware of any similar method that exists for other road traffic offences.

²⁰People killed immediately or dying within 30 days as a result of a road accident in which at least one of the drivers involved was a non-resident in the Member State in which the accident took place.

²¹Accidents that caused someone to die, in which at least one non-resident driver was involved.

It appears that the CBE Directive's impact on road safety is embedded strongly in the ability to improve the identification of non-resident offenders. However, as is shown in Table 3 (Section 5), the exchange of vehicle registration data through the electronic information system could be improved.

The evaluation has also identified issues that reduce the effectiveness of sanctions for road traffic offences: sanctions for approximately 50 % of offences could not be successfully enforced (see Section 6.2.7.). This is likely to have hindered the deterrent effect of the CBE Directive, which was expected to improve non-resident road users' compliance with road traffic rules.

The trends in road traffic offences in Member States reflect this situation. Data related to road traffic offences were provided by 13 Member States²² (see Table 2 in Section 5) and show that the number of detected offences committed by both residents and non-residents in 2013-2014 did not decrease either in the Member States who implemented the Directive in 2014 or in those who did not. On the contrary, the number of detected offences committed by non-residents significantly increased (by approximately 60 %) in France and Belgium.²³ Furthermore, no significant decrease in the number of these offences was registered in 2014-2015. The received data indicate that the proportion of detected offences committed by non-residents decreased in France and Poland in 2014-2015; the opposite was seen in Hungary and the Netherlands, where this proportion increased. As this does not show a clear correlation between the CBE Directive and compliance, there is no reason to expect that a clear correlation can be established between the CBE Directive and road fatalities or fatal accidents.

The evaluation analysed the available data on road fatalities and fatal accidents. Trends in Member States who actively used the electronic information system in 2014 (Austria, Belgium, Bulgaria, Germany, France, Lithuania, Hungary, Poland²⁴) were compared to trends in Member States who did not. As most countries started implementing the Directive in 2014 and final 2015 data were not processed at the time of the evaluation, the analysis focused on changes between 2013 and 2014. Detailed results can be found in the evaluation study.²⁵ The main finding was that it was impossible to find evidence of any correlation between the fact that some Member States started implementing the CBE Directive in 2014 and:

- 1) a decrease in the number of all road fatalities and fatal accidents in 2014 compared to 2013,
- 2) a decrease in the number of road fatalities and fatal accidents involving non-residents,²⁶
- 3) a decrease in the proportion of road fatalities and fatal accidents involving non-residents in the total number of fatalities and fatal accidents.

²²Only Belgium, Estonia, France, Hungary, Latvia, the Netherlands, Poland and Slovakia provided information on the proportion of offences involving foreign registered vehicles in all road traffic offences, by type of offence under the scope of the CBE Directive.

²³Paradoxically, this negative trend seems to be due to better enforcement. In 2013-2014, the number of automatic checking equipment installed in France increased by 2 %. Both Belgium and France started following road traffic offences very closely at that time, under strengthened bilateral cooperation; they detected and registered a huge number of road traffic offences.

²⁴However, Bulgaria did not provide any data and Belgium provided its data too late for it to be fully reflected in the evaluation.

²⁵http://ec.europa.eu/transport/facts-fundings/evaluations/annual_en.htm

²⁶Data on road fatalities involving non-resident drivers were provided by 19 Member States. 18 Member States provided data on fatal accidents involving non-resident drivers. The analysed period is 2011-2014, but not all Member States who provided data provided it for 2014.

In four Member States who actively implemented the Directive in 2014 (Austria, France, Hungary and Lithuania), the proportion of road fatalities and fatal accidents involving non-residents in the total number of road fatalities and fatal accidents decreased on average by more than one percentage point in 2013-2014. In Germany and Poland, the proportion remained stable. The percentage decrease in the number of road fatalities and fatal accidents involving non-residents in 2013-2014 does not appear to be more significant than in 2012-2013 and 2011-2012 (except in France).

In 2013-2014, heterogeneous trends were registered in the Member States who did not implement the CBE Directive in 2014. In some of these Member States (e.g. Slovakia and Slovenia), the proportion of road fatalities involving non-residents in all road fatalities increased, while in others it decreased (e.g. Luxembourg). The same applies to trends in the proportion of fatal accidents involving non-residents in all road fatal accidents, e.g. Sweden and Croatia registered a slightly increased proportion, while other Member States registered a slight decrease.

Moreover, since 2014, road safety statistics show that the total number of road fatalities in the EU has not been significantly reduced.

All of this suggests that the trends could be influenced by other factors which have impact on road safety and are not linked to the application of the CBE Directive.²⁷ This makes it impossible to provide clear evidence about the Directive's positive impact on road fatalities and fatal accidents.

6.2.2. *Are there any non-targeted significant results and impacts of the measures set out in the CBE Directive?*

2 % of stakeholders claimed that the exchange of vehicle registration data under the CBE Directive generates impacts not related to road safety, e.g. it improves cooperation between Member States' police authorities in the fight against crime. However, there is no specific evidence to confirm that improved cooperation is the consequence of implementing the Directive.

6.2.3. *What are the main problems with the implementation of the CBE Directive in Member States?*

More than 90 % of Member State authorities identified the major issue to be the fact that too many Member States were not connected to the electronic information system and thus in practice did not make it possible for authorities in other Member States to search in their vehicle registers. The result of desk research and surveys indicates that only France and Belgium continuously investigated road traffic offences committed by non-residents since 2013, and used the system to do so. Member State authorities have not explained in detail the reasons behind delays in connecting to the system. However, some authorities have indicated that the situation is due to a lack of financial and human resources and the shift to other priorities, namely security issues (terrorism, refugees). Several authorities encountered technical problems in relation to the IT tools (national plug-in applications to the system).

²⁷For example, technical failures in vehicles, safety equipment of vehicles, road infrastructure, emergency response in case of crash, economic development and its impact on the volume of traffic, the weather and climate change, the increase of vulnerable users such as cyclists, enforcement practices as well as the number of automatic checking equipment, the use of communication tools, the behaviour of road users and the impact of other road safety related EU laws, as mentioned in the Interim Evaluation of the Policy Orientations on Road Safety 2011-2020.

http://ec.europa.eu/transport/road_safety/events-archive/interim_eval_report_2011_2020_en.htm

One of the problems mentioned by the authorities relates to the implementation of the requirement to provide the information letter in the language of the vehicle's registration document, or in one of the official languages of the Member State of registration, to ensure the respect of fundamental rights. Annex II of the CBE Directive includes a non-obligatory template for the information letter, translated into all official EU languages. However, only the generic fields are translated and some information still needs to be added in the language of the vehicle's registration, e.g. a description of the committed road traffic offence. This leads to problems with the quality of the translation and translation costs.

However, translating the information letter should not be considered as a problem (see Section 6.4.2.) but as a necessity, in order to ensure that EU citizens' fundamental rights²⁸ are respected.

6.2.4. *Which factors have hindered the achievement of the general objectives of the CBE Directive?*

Member State authorities and experts dealing with road safety legal issues emphasised that one of the main obstacles to implementing the CBE Directive is the application of **different liability regimes** (owner/holder liability or driver liability)²⁹ for road traffic offences.

Under the owner/holder liability regime, the vehicle's owner/holder is liable for the road traffic offence and has to pay a fine, regardless of whether s/he was driving the vehicle with which the offence was committed or not. This means that the vehicle's owner/holder is held liable for road traffic offences committed with his/her vehicle and detected by enforcement authorities in accordance with national rules.

The driver liability regime means that the vehicle's driver is liable for road traffic offences. Enforcement authorities usually send a notification to the vehicle's owner/holder with a request to identify the driver. If the owner/holder does not identify the driver, they are required to pay the fine. From a legal point of view, the fine then imposed by the authorities is for failure to respond to an information request and not for the road traffic offence, since there is no evidence that the vehicle's owner/holder was driving and committed the road traffic offence.

Germany, Sweden and Finland have a so-called 'strict driver liability' regime. Under this regime, there is generally no presumption that the vehicle's owner/holder is responsible for the road traffic offence. Therefore, enforcement authorities are obliged to provide evidence that the presumed offender was driving the vehicle with which the offence was committed. Identifying the driver is, therefore, a precondition for issuing a fine. The enforcement authorities cannot even require the vehicle's owner/holder to identify the driver because this would contradict the privilege against self-incrimination³⁰ laid down by national legislation; they must provide the presumed offender with clear and exhaustive evidence for them committing the road traffic offence. The 'strict driver liability' regime strongly protects citizens' fundamental or constitutional rights (with an extra-territorial effect), but creates

²⁸The CBE Directive upholds the fundamental rights and principles recognised by the Charter of Fundamental Rights of the EU, as set out in Recital 25 of the Directive. Nevertheless, the Charter only applies when Member States are acting in the scope of EU law in line with the principle of conferred powers where the EU acts only within the limits of the competences conferred upon it by the Member States in the Treaties. This means that the Charter does not apply to road traffic offences which are not covered by the CBE Directive due to the absence of relevant EU law.

²⁹Sometimes referred to as '*objective or subjective liability/responsibility*'

³⁰The privilege against self-incrimination forbids a government from compelling any person to give testimonial evidence that would likely incriminate them in a subsequent criminal case.

serious obstacles to the efficient cross-border enforcement of sanctions for road traffic offences detected automatically without photographing the driver.

Nevertheless, the application of different liability regimes cannot be regarded as an obstacle to implementing the CBE Directive, as the Directive only aims to identify the vehicle owner/holder and makes it obligatory to provide vehicle registration data upon request (incoming searches). The Directive makes it possible to access the vehicle registration data of other Member States while not requiring Member States to investigate road traffic offences or impose fines on non-resident offenders. However, some stakeholders emphasised that Member State authorities' mutual assistance and cooperation in investigating offences committed by non-residents (e.g. delivering documents to the presumed offenders if the vehicle registration data are not accurate or providing additional information to support evidence on the committed road traffic offence) needs to be improved to ensure the achievement of the Directive's general objectives, in particular the consistent enforcement of sanctions. This is particularly relevant for Member States with different liability regimes, to ensure the equal treatment of resident and non-resident drivers.

The **level of using automatic checking equipment** may also hinder the implementation of the CBE Directive to the extent that many Member States do not automatically detect significant numbers of offences³¹ covered by the CBE Directive as they do not have enough equipment in operation for the length of their roads.³² Consequently, the mechanism put in place by the Directive cannot be efficiently used. However, it appears that in the Member States who provided information on speed cameras (see Table 4 below), other factors also play a role in using the equipment, e.g. the number of non-resident users on the road network. Moreover, the lack of automatic equipment can be offset by a higher number of manually operated equipment which can also be used when the vehicle does not need to be stopped for the offence to be detected or cannot be stopped because of various reasons (e.g. dense traffic).

Table 4: Use of speed cameras

	2015						
	Number of mobile ⁽¹⁾ cameras	Number of fixed cameras	Number of time-over-distance cameras	Number of dummy ⁽²⁾ cameras	Total number of cameras	Number of fixed cameras per 10 000 km of roads	Number of detected speeding offences ⁽³⁾ committed by non-residents
AT ⁽⁴⁾	84	145	10	500	739	41	650 909
BE	461	1560	226	3314	5561	955	n/a
CY	0	2	0	0	2	4	n/a
DK	100	0	0	0	100	0	n/a
EE	0	40	n/a	n/a	40	24	n/a
ES	391	484	30	46	951	29	n/a
FI	22	100	0	800	922	37	n/a

³¹SafetyNet (2009) Speed Enforcement: *'The best estimate is that automatic camera enforcement results in a crash reduction from 15 to 20 %'* quoting 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://ec.europa.eu/transport/road_safety/specialist/knowledge/pdf/speed_enforcement.pdf

³²Motorways, main/national roads and secondary/regional roads, Statistical pocketbook 2015, Transport, European Commission (<http://ec.europa.eu/transport/facts-fundings/statistics/doc/2015/pocketbook2015.pdf>)

FR	787	2180	100	886	3953	54	2 562 964
HR	317	21	0	39	377	11	n/a
HU⁽⁵⁾	160	8	0	10	78	3	52 299
IE	497	0	0	0	497	0	n/a
IT⁽⁶⁾	193	81	379	103	756	4	n/a
LV	4	16	0	0	20	22	n/a
LT⁽⁷⁾	13	139	0	n/a	152	65	19 040
NL	186	642	24	0	852	495	595 630
PL	1912	400	29	0	2341	23	73 450
RO	596	0	0	10	606	0	0
SE	15	1300	0	0	1315	131	n/a
SI	184	16	0	8	208	24	n/a

Note: in speed-over-distance systems there might be more than one camera in operation

(1) Manual and autonomous mobile equipment

(2) This can cover ‘pedagogical’ cameras which are used for displaying the vehicle speed but are not used for enforcement

(3) Speeding offences detected by cameras automatically/without stopping the vehicle

(4) Number of detected speeding offences committed by non-residents after June 2015

(5) 365 automatic cameras to be installed at 134 locations in 2016. The number of detected offences covers the offences registered after the searches via EUCARIS. There were many cases cancelled after the search (no established evidence) — the number of initially detected offences is estimated at 80 000.

(6) Cameras operated by national police and ‘carabinieri’ only. Data on the number of cameras operated by the local police operating in cities are not available.

(7) The number of detected offences covers all offences detected automatically

Source: PIN Flash Report 31, ETSC, June 2016

(<http://etsc.eu/how-traffic-law-enforcement-can-contribute-to-safer-roads-pin-flash-31/>)

Grimaldi, Evaluation study on the application of Directive 2011/82/EU, 2016

Member States’ comprehensive 2016 reports (Article 6 of the CBE Directive)

European Commission, High Level Group for Road Safety (information collected in 2016)

A few Member State authorities also pointed out that some checking equipment does not recognise the vehicle country sign³³ on the number plate or other plate characteristics. This means that searches can be carried out in the wrong Member State. However, there is no precise information available on the scale of this problem.

According to the external evaluation study, few stakeholders (4 out of 43) suggested a need for harmonization of road traffic rules in order to ensure an effective cross-border enforcement of road traffic rules. However, the analysis concludes that the harmonization of road traffic rules is neither a pre-condition for an effective functioning of cross-border enforcement of road traffic rules nor necessary to improve the effectiveness of the CBE Directive.

6.2.5. *To what extent does EUCARIS contribute to the effective implementation of the CBE Directive, including equal treatment of resident and non-resident offenders?*

The exchange of vehicle registration data under the CBE Directive is based on the electronic information system EUCARIS which contributes significantly to the effective cross-border enforcement of road traffic rules, although outgoing searches are not always successful.

³³The distinguishing registration sign of a Member State as set out in Council Regulation (EC) No 2411/98 of 3 November 1998 on the recognition in intra-Community traffic of the distinguishing sign of the Member State in which motor vehicles and their trailers are registered.

Concerning the total number of failed searches³⁴ performed by Belgium, France, Croatia, Hungary, the Netherlands and Poland (the Member States that provided information by the end of the evaluation in February 2016 — see Table 5 below), out of the total number of outgoing searches performed in 2013-2015, 7.43 % resulted in a failure (not necessarily linked to the functioning of EUCARIS). This percentage is considered to be rather low.

Table 5: Outgoing searches in EUCARIS

	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 ⁽¹⁾	47 335	35 %
NL	-	-	-	-	-	-	575 607	132 390	23 %
PL	-	-	-	13 286	2 533	19 %	34 546	4 813	14 %

⁽¹⁾ This number includes searches in cases of non-payment of a financial penalty where the vehicle's registration number is checked again via EUCARIS

Source: Grimaldi, Evaluation study on the application of Directive 2011/82/EU, 2016

It should be noted that EUCARIS ensures the secure and confidential exchange of 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.

According to the results of the satisfaction survey, EUCARIS users (Member State authorities) are strongly satisfied with the system. They do not want to replace EUCARIS with another system and they recommend it in their Member States not only for the exchange of vehicle registration data, but also for other purposes. According to Member States' feedback, EUCARIS saves time (there is no quantitative information available on this) and provides what they need. The system's reporting functionality facilitates Member States' compliance with their obligations under Article 6 of the CBE Directive and contributes to the equal treatment of EU citizens.

It should be noted that, before EUCARIS was implemented, Member States investigated road traffic offences committed by non-resident offenders only occasionally, based on mutual agreements where the exchange of information was usually paper-based (see Section 6.5.2.). Therefore, resident and non-resident offenders could not be considered as being equally treated. The automated on-line exchange of vehicle registration data through EUCARIS providing the necessary information practically immediately has had a positive impact on the cross-border enforcement of sanctions: the number of investigated road traffic offences committed by non-residents (outgoing searches) increased by approximately four times between 2013³⁵ and 2015, even though only a few Member States actively implemented the CBE Directive during that time.

³⁴ A 'failed search' is one that cannot access the required data in the consulted database(s), preventing a Member State from identifying a non-resident offender.

³⁵ It is estimated that, before 2013, there may have been approximately 600 000 road traffic offences investigated in the EU each year, under bilateral and multilateral agreements. Complete information is not available,

6.2.6. *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?*

Member States have different ways of automatically detecting speeding offences (practically, there are no different automatic detection methods for other road traffic offences). In some Member States, it is possible to detect speeding offences by measuring not only instant speed but also the average speed on a section of road. In other Member States, legal and practical obstacles make the use of section control devices problematic. Stakeholders identified the cost of using section control devices as a major obstacle to their deployment. This is particularly relevant for Member States who apply the driver liability legal regime, as there a section control device would need to take a photo of the vehicle's number plate and the driver twice: once when the vehicle enters the relevant section of road and once when it exits. As long as there is no evidence of any significant impact on road safety or the cross-border enforcement of sanctions, harmonising detection methods at this stage would be seen as non-justified interference in Member States' enforcement policy choices.

It is generally recognised that the exchange and application of best enforcement practices, including the deployment³⁶ and operation of automatic checking equipment (see Section 6.2.4.) can have a positive impact on road safety.

The evaluation did not identify any cross-border cases where the evidence produced by automatic checking equipment was refused or not recognised because the equipment was unreliable. However, as the implementation of the CBE Directive continues, the possibility of this happening may increase. If it does, harmonised EU-level standards, type approval procedures and periodic checks of automatic checking equipment (e.g. calibration of equipment)³⁷ could increase the reliability of the equipment.

6.2.7. *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 information received from some Member States, presented in Table 6 below, indicates that approximately 50 % of financial penalties for investigated road traffic offences

however. This means that the CBE Directive may have more than doubled the number of investigated road traffic offences by 2014.

³⁶There may be specific principles linked to deployment practices e.g. the requirement that the checking equipment needs to be signposted to drivers, as stated by Italian courts (Corte di Cassazione (Supreme Court), Order number 680 of 13 January 2011).

³⁷There are court rulings in Italy requiring that the checking equipment used to detect offences is tested at least once a year (e.g. decision of the 'Corte Costituzionale' of 18 June 2015 no. 186). In Spain, 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 2013). In the UK, the Brighton Magistrates Court stated in December 2008 that the evidence behind a speeding ticket was not reliable because the camera was not functioning under the conditions set by the 1988 Road Traffic Offenders Act, section 20(4), in particular, that the device had not been approved by the Secretary of State. While some Member States (e.g. UK, Germany and Poland) apply detailed rules concerning technical parameters and use of speed cameras, in other Member States (e.g. Italy) it was impossible to find such rules.

committed by non-residents are paid voluntarily after the information letter is received. It appears that currently the remaining offences are not successfully enforced due to:

- Member States’ lack of mutual assistance and cooperation in investigating road traffic offences as described in Section 6.2.4; or
- decisions issued by Member States in cases of non-payment of a financial penalty for these offences often do not fall under Council Framework Decision 2005/214/JHA.

Table 6: Payment rate for offences covered by the CBE Directive (2015)

	Rate
BE	54 %
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

Source: Grimaldi, Evaluation study on the application of Directive 2011/82/EU (2016)

Moreover, the number of mutually recognised decisions that fall under the Framework Decision and relate to financial penalties for road traffic offences is very low. The proportion of successfully enforced financial penalties in all financial penalties which are not paid voluntarily varies from 0 to 1 %.³⁸ Only Germany (the Federal Ministry of Justice) provided detailed information on incoming and outgoing requests to recognise decisions related to financial penalties for road traffic offences (e.g. in 2011-2014, Germany issued 15 843 decisions related to road traffic offences committed by non-residents of which 43 % was not executed). The UK (Department for Transport) provided data in aggregate form covering all offences under the scope of the Framework Decision. For other Member States, namely Croatia, Hungary, Belgium, Spain, Czech Republic, Cyprus, Estonia, Latvia, Lithuania, Luxembourg, Poland, Portugal, Sweden, Slovenia, Denmark, Ireland, Italy and Greece, they either do not apply the Framework Decision to road traffic offences, their cases do not fall under the Framework Decision, or the number of requests is negligible (several hundred).

The above suggests that the low level of applying Council Framework Decision 2005/214/JHA to road traffic offences negatively affects the CBE Directive’s impact on the cross-border enforcement of sanctions for road traffic offences. This is confirmed by Member State authorities, who consider the current procedures related to the non-payment of financial penalties for road traffic offences as inadequate in the cross-border context. It appears that the procedures are not tailored to the current situation where millions of financial penalties for detected road traffic offences have to be enforced and therefore do not adequately complement the exchange of information under the CBE Directive. The Directive’s positive impact on road safety through the deterrent effect of sanctions for detected road traffic offences is not yet visible and even if achieved might not be sustainable if the sanctions are not enforced.

³⁸If 100 % of detected offences were investigated, there could be approximately **5 million** road traffic offences committed by non-residents per year, for which financial penalties are not paid voluntarily. It should be noted that there is no information on the number of financial penalties for road traffic offences which cannot be enforced due to the lack of mutual assistance and cooperation between Member States.

Council Framework Decision 2005/214/JHA is a mutual recognition instrument intended to cover all types of criminal offences. It is not meant to deal with mass road traffic offences which are usually (minor) administrative delicts. The Commission published an evaluation report concerning the Framework Decision in 2008³⁹ and is currently working with experts from several Member States to design standardised forms to facilitate the procedure for cross-border enforcement of financial penalties under the Framework Decision.

6.2.8. *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?*

All stakeholders indicated that the information provided on the Commission's Going Abroad webpage is relevant for road users. Road users consult the webpage rather frequently, which shows that the information is useful and needed.

In 2014, the Going Abroad webpage received 227 317 visits, which is 31 % of visits to the Road Safety section of DG MOVE's website and 4.5 % of visits to the whole DG MOVE website. The number of visits to the Going Abroad webpage increased to 267 470 in 2015, i.e. by 18 %. The number of visits tends to peak in June and July. In addition, the smartphone application was downloaded 86 538 times from June 2014 to August 2015.

Only Belgium and France provided information on road users' visits to national websites. Belgian website www.wegcode.be receives about 50 000 visits per month in Dutch and about 47 000 in French, i.e. a total of 1 164 000 visits per year. This shows that national initiatives aimed at improving road users' awareness of rules can be very useful.

French website <http://www.preventionroutiere.asso.fr> had 15 000 visits in 2014. It provides specific information for drivers going abroad, including a link to the Commission's website.

Based on the above, at least 400 000 road users in the EU annually receive information on road traffic rules. In addition to this, some stakeholders, e.g. the European Transport Safety Council, stated that implementation of the CBE Directive in Belgium, Greece, Spain and Finland was supported by information in the national press and campaigns that likely had an impact on road users' awareness of the need to comply with road traffic rules when driving abroad.

Information on road users' awareness of road traffic rules in other Member States is not available. The open public consultation had few replies from road users so it is impossible to draw conclusions about the provided information on road traffic rules in force. Moreover, it is impossible to draw any reasonable conclusions about the CBE Directive's possible impact on citizens' awareness of the rules in force in other Member States, due to the absence of a theoretical approach to assessing the impact of awareness measures on the behaviour of road users.⁴⁰

³⁹Report from the Commission COM(2008) 888 final of 22.12.2008 based on Article 20 of the Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties

⁴⁰The Commission financed the SARTRE project (<http://www.attitudes-roadsafety.eu/home/publications/>), where comparable data on road users' opinions, attitudes and behaviour with respect to road traffic risks were collected. The Belgian Road Safety Institute finances a similar project, ESRA (<http://www.esranet.eu/about-the-project>).

6.3. Sustainability

6.3.1. *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?*

In the medium term, application of the CBE Directive could be negatively affected by the following, as described in Sections 6.2.3., 6.2.4. and 6.2.7.:

- the lack of financial, human and technical resources in Member States, which results in a low number of detected road traffic offences and limited use of the electronic information exchange system;
- the lack of mutual assistance and cooperation between Member States in investigating road traffic offences after exchanging vehicle registration data, especially where different liability regimes are applied, which results in a low number of investigated road traffic offences committed by non-residents and a low enforcement rate for sanctions;
- decisions issued by Member States in cases of non-payment of a financial penalty for these offences often do not fall under Council Framework Decision 2005/214/JHA, which results in a low enforcement rate for sanctions in cases of non-payment of a financial penalty.

Most Member State authorities consider that the level of non-resident road users' compliance with road traffic rules may decrease because of road users' belief that penalties imposed by a Member State other than the one in which they reside tend to not be enforced. Road users may believe that there are no legal consequences in the Member State of their residence and that the only risk they face is being stopped and asked to pay a fine if they re-enter the territory of the Member State in which they committed the offence. Therefore, mutual assistance and cooperation between Member States in investigating road traffic offences committed by non-residents should be strengthened and the procedures that apply in cases of non-payment of a financial penalty should be improved to better address future needs stemming from the intensive use of automatic detection equipment. Such improvement may influence provisions related to the exchange of vehicle registration data and to the information letter.

In targeted consultation, Member State authorities did not identify any road safety related issue that would require a modification of the CBE Directive.

6.4. Efficiency

6.4.1. *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?*

To quantify the costs of implementing the CBE Directive at national level and in view of assessing its cost effectiveness, data have been gathered on the costs incurred by Member States for administering, using and maintaining EUCARIS, and developing and maintaining a national-level software plug-in application to connect EUCARIS with national databases.

The overall costs for Member States of the cross-border exchange of vehicle registration data can be divided into the following categories:

- development, support and maintenance of EUCARIS by the EUCARIS Secretariat;

- development and maintenance of a national-level software plug-in application to connect EUCARIS with the national registry of vehicle and driving licence information;
- maintenance of the connection between national registries and EUCARIS;
- administrative costs incurred by the national contact points and civil servants when implementing the CBE Directive.

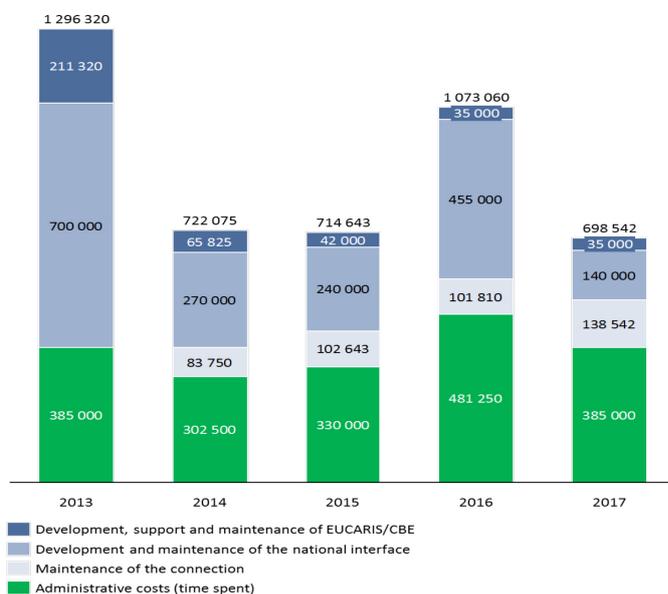
As presented in Table 7 below, the highest costs for Member States are related to:

(i) the development and maintenance of a national-level software plug-in application to connect EUCARIS, and

(ii) the time spent by national contact points and civil servants on carrying out the administrative activities required by the CBE Directive.

Based on estimates made during the impact assessment for the CBE Directive proposal in 2008, the costs related to the cross-border exchange of vehicle registration data can be considered to be insignificant in comparison to the costs related to follow-up procedures under the Directive⁴¹. It appears that it is significantly more expensive for Member States to continue the cases once the vehicle's owner/holder is identified (from EUR 5 million to EUR 6.5 million per year for the EU-27⁴²) than to get the necessary information that allows them to initiate follow-up actions (highest annual costs of exchanging vehicle registration data in 2013-2017 are estimated at EUR 1.3 million for the EU-28).

Table 7: Estimated overall costs incurred in the EU-28



Source: Grimaldi, Evaluation study on the application of Directive 2011/82/EU (2016)

Therefore, the costs related to the cross-border exchange of vehicle registration data are lower than those related to other stages of the enforcement chain.

⁴¹These are procedures carried out after the owner/holder of the vehicle is identified. The costs related to the procedures under Framework Decision 2005/214/JHA have not been assessed due to time and financial constraints.

⁴²At the time of the impact assessment, Croatia was not in the EU.

It also appears that most Member States do not consider as excessive the costs of implementing the software applications that carry out searches under the CBE Directive (including the annual costs related to the development, support and maintenance of EUCARIS and the maintenance of the Member States' national connection to it). Moreover, the external evaluation study suggests that the EUCARIS software application for vehicle registration data exchange under the Directive incurs the lowest total cost of ownership⁴³ compared with the EUCARIS software applications used in other electronic information systems⁴⁴ and having similar purpose and characteristics.

The costs of implementing the CBE Directive must be considered in relation to the Directive's objectives: to increase road safety and to improve the consistent enforcement of sanctions for road traffic offences. Although increased road safety is expected to bring benefits by decreasing related costs (for instance those related to loss of life, medical expenses and loss of labour capacity), the evaluation did not provide evidence of the benefits' magnitude and how far they have been reached. The consistency of enforcement appears to have improved with the Directive's implementation but the associated benefits are not directly quantifiable.

Therefore, it is impossible to draw any conclusions about this aspect. It is, however, possible to calculate a more precise value of the net financial cost of implementing the CBE Directive after taking into account the revenue generated by the payment of fines. For this purpose, the amount of revenue has been estimated to include revenue that has been or could be generated by the enforcement of sanctions for road safety related traffic offences (covered by the Directive and committed by non-resident offenders).

Based on information provided by France, Belgium, Hungary, Poland, Croatia and the Netherlands, the estimated revenue generated by the CBE Directive (from paid fines) significantly increased between 2013 and 2014 (multiplied by more than 2.5) and increased slightly in general between 2014 and 2015 (by 2 %). For Hungary and Poland, the revenue significantly increased between 2014 and 2015, though it decreased for France and Belgium. No comparison could be made for the Netherlands and Croatia, since their data are only available for 2015. It should also be noted that the revenue varies by up to 100 % between the lowest and highest estimates — from EUR 37 million to EUR 58 million in 2013; from EUR 104 million to EUR 172 million in 2014 and from EUR 134 million to EUR 231 million in 2015.

The costs of implementing the CBE Directive in the EU-28 (including those related to the follow-up procedures) were estimated over the last five years as to never have exceeded EUR 7.8 million per year. Member States' increased use of EUCARIS to carry out automated searches combined with the improved quality of search results should increase the chance of revenue being even higher.

The above makes it possible to conclude that the costs related to the cross-border exchange of vehicle registration data and follow-up procedures under the CBE Directive are moderate and that they are offset by the revenue generated by the payment of fines. However, the wider benefits, in particular those related to the achievement of the Directive's objectives, could not be quantified.

⁴³A system's total cost of ownership is the total estimated cost to develop the system, put it into production, operate it, support it, maintain it and phase it out in the end.

⁴⁴The option of exchanging vehicle registration data under the Commission's electronic information system TACHOnet has not been assessed.

6.4.2. *What aspects of the implementation of the CBE Directive generate an unnecessary administrative burden and how could this be improved?*

Although the costs related to implementing the CBE Directive are considered to be rather low, it appears that there is a margin to reduce them further by narrowing the scope of some activities carried out by Member States.

Member State authorities mentioned that their reporting to the Commission (Article 6 of the CBE Directive) and the sending of an information letter to the non-resident offender in the language of the vehicle's registration document or in one of the official languages of the Member State of registration (Article 5 of the CBE Directive) require significant internal resources for administrative activities, e.g. to prepare, conduct and follow-up internal and external meetings, retrieve and check information. Although there is a template for the information letter in Annex II to the CBE Directive, and it is translated into all official EU languages, there is a need for special tools that would facilitate the translation of the additional information required in the letter or of the answers of non-resident offenders (provided in their native language).

Member States could save time spent on preparing the comprehensive report they must submit to the Commission every other year if the reporting functionality of EUCARIS was further improved so as to automatically report to the Commission the number of carried out (outgoing) and failed searches.

However, Member States did not provide data that would make it possible to calculate the costs related to these activities.

6.4.3. *Would it be possible to achieve the same level of road safety protection more efficiently by other methods of enforcement of traffic rules?*

One possible alternative mechanism could be an EU database for vehicle registration data. Such a system would likely make it possible to achieve the same results as the CBE Directive, as it would allow the Member State in which the offence was committed to identify the owner of the vehicle and issue a fine. However, it would also pose the following challenges, which would likely lead to substantial, although currently not quantifiable, costs:

- technical: i.e. harmonisation of vehicle registration data formats in all Member States;
- legal: i.e. question of the responsibility for keeping such a registry up-to-date;
- political: likely opposition of Member States who would no longer be the owners of national vehicle registration data.

This alternative should also be assessed in light of the subsidiarity principle, considering that the exchange of vehicle registration data makes it possible for Member States to access data related to the vehicle owner/holder resident in another Member State and that creating a single database is not strictly necessary 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 might therefore lead to additional costs, since data from all Member States would need to be integrated for the system to function effectively.

A second possible alternative, already identified in the impact assessment of the CBE Directive proposal in 2008, is for the Member State in which the vehicle is registered to enforce sanctions. This alternative would however pose legal challenges, since it requires the adoption of measures on the mutual recognition of evidence. Additionally, due to the link

between legal liability regimes 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 State. 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 offender's Member State of residence 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 in which the offence is committed would have to translate more documents (practically all evidence) than just a simple information letter as is the case under the CBE Directive; this would mean that fewer sanctions are enforced.

There is a third possible alternative — joint road traffic cross-border enforcement police operations and awareness-raising campaigns (e.g. the TISPOL STRIDER project which started on 1 March 2015 and will conclude on 31 May 2017).⁴⁵ If carried out by two or more Member States, police operations especially have the potential to detect a great number of road traffic offences in a specific geographic area and in a relatively short period of time, and to have a strong deterrent effect. They may therefore be fully complementary to the CBE Directive, but could not replace the Directive as a tool facilitating the cross-border enforcement of road traffic offences that are detected automatically (or without stopping the vehicle) and that are committed by non-residents anywhere in the EU at any time.

There is no evidence that any alternative mechanism would be as effective as the CBE Directive while achieving the same benefits at a lower cost (or greater benefits at the same cost). All stakeholders agreed that no alternative methods of cross-border enforcement could be identified to achieve the same level of road safety more efficiently.

6.5. Added value

6.5.1. *What are the advantages of an exchange of vehicle registration data at the EU level?*

The CBE Directive makes it possible to identify non-resident offenders in cases where the road traffic offence is detected automatically or without stopping the vehicle and thus increases the deterrent effect of national sanctions for road traffic offences at EU level. Before its implementation, most Member States exchanged vehicle registration data only occasionally, usually by letter (manually) and only with neighbouring countries. The advantages of the electronic exchange of vehicle registration data at EU level are reliability and the fact that the system covers all Member States. This shift to an electronic exchange has already increased the number of followed-up road traffic offences (see Section 6.2.5).

From a purely legal view, Member States' enforcement authorities must grant access to their registries of vehicle registration data as failing to do so would likely lead to the Commission launching an infringement case against them. This is not the case for international agreements, which enforcement authorities sometimes do not apply either because of national legislation contradicting them, because they simply do not have the resources to do so, or because they do not want to cooperate with other Member States' enforcement authorities.

⁴⁵<https://www.tispol.org/strider>

6.5.2. *In how far could the same or better results be achieved by bilateral or multilateral agreements between Member States?*

There are bilateral and multilateral agreements that contain elements not covered by the CBE Directive, especially strengthened mutual assistance and cooperation in investigating road traffic offences.

For example, Austria and Germany have an agreement covering: different measures of mutual legal assistance in administrative matters including traffic offences; the exchange of vehicle registration data for all kinds of road traffic offences; and various measures of mutual legal assistance (identification of the driver, delivering documents and enforcement/execution of judicial decisions). This agreement does not involve translation costs, since German is the official language in both countries.

Under the multilateral Nordic Police Cooperation Agreement of 1 January 2003, police agencies may request assistance in identifying non-resident drivers and seek support for the enforcement of a penalty, on case-by-case basis. If an offence is detected automatically in a participating Member State, photos of the vehicle's number plate and driver are sent to the Member State of registration, who is responsible for identifying the driver. In cases of refusal to pay, the issue of the fine is transferred to the public prosecution.

The Salzburg Forum CBE Agreement between Austria, Hungary, Croatia and Bulgaria, which takes advantage of the exchange of vehicle registration data through EUCARIS and the similar liability regimes of the contracting parties, also contains specific rules related to mutual assistance and cooperation in investigating road traffic offences committed by non-residents (e.g. delivering documents to presumed offenders). The technical implementation of the agreement, i.e. the exchange of information using the EUCARIS Salzburg software application, should be completed by the beginning of 2017. The agreement is open to all Member States and could eventually lead to a pan-European initiative.

To have the same effect as the CBE Directive, Member States would have to conclude 378 (mutually compatible) bilateral agreements (see Table 3, footnote 18); this does not seem to be an effective approach. In addition, multilateral agreements in force cannot fully replace the CBE Directive due to their limited coverage and specific conditions.

6.6. Coherence

6.6.1. *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 Directive⁴⁶)?*

The provisions of the CBE Directive do not conflict with provisions under other EU road safety acts and do not contain any contradicting definitions. The Directive has contributed to a more consistent road safety legal framework by complementing other measures, e.g. the 3rd Driving Licence Directive which has an impact on road users' driving skills and their knowledge of road traffic rules in the Member State in which they obtained the right to drive. There is ongoing discussion in the Commission's expert group established to support the enforcement of sanctions for road safety related traffic offences concerning possible cross-border exchange of information on demerit/penalty points; this would, however, require the

⁴⁶Directive 2006/126/EC on driving licences (Recast) OJ L 403, 30.12.2006, p.18

mutual recognition of driving disqualifications.⁴⁷ Data exchange under the CBE Directive can be used for the cross-border enforcement of driving disqualifications, but this issue needs further legal and technical assessment.

6.6.2. *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 cross-border exchange of vehicle registration data and to raise citizens' awareness of traffic rules, fully complement each other. This assumption has been confirmed by all stakeholders who provided an opinion on the relationship between the awareness of road traffic rules and the enforcement of the rules, including road safety experts, as well as by existing literature on road safety.⁴⁸ It is acknowledged that in order to ensure compliance with road traffic rules it is necessary to ensure effective enforcement and, at the same time, to promote road users' awareness of road traffic rules in force. All policies successfully addressing road safety include both measures improving enforcement methods and measures aimed at improving road users' awareness of the rules.⁴⁹

7. CONCLUSIONS

The CBE Directive brings EU added value by making possible the automated exchange of vehicle registration data in all Member States through an electronic information system. This system cannot be as effectively and efficiently ensured by existing bilateral or multilateral agreements. It ensures expeditious, secure and confidential exchange of vehicle registration data without generating unnecessary administrative burden. The system is effective since it has had a positive impact on the cross-border enforcement of sanctions: the number of investigated road traffic offences committed by non-residents increased by approximately four times between 2013 and 2015 in the Member States that implemented the Directive. However, the electronic information system has not been used to its full potential. In 2015, approximately 50 % of detected road traffic offences committed by non-residents were not investigated, presumably because of the Directive's delayed transposition and implementation and the lack of mutual assistance and cooperation between Member States in investigating road traffic offences after exchanging vehicle registration data, especially where different liability regimes are applied.

The scope of the CBE Directive is considered as adequate since it covers the most important road traffic offences.

The CBE Directive's positive impact on road safety cannot be fully demonstrated yet due to the short amount of time since the electronic information system to exchange vehicle registration data was established at EU level. In addition, other general factors such as

⁴⁷Currently, only the UK and Ireland have a system for the mutual recognition of driving disqualifications. However, it does not yet cover the exchange of demerit/penalty points.

⁴⁸Legislation, 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>

⁴⁹https://www.unece.org/fileadmin/DAM/trans/doc/2012/wp1/NatDev-2012_Strategic_Framework_for_Road_Safety.pdf See also the study by T. Blondiau, S. Rousseau, Safety Enforcement, 2013.

technical failures in vehicles, road infrastructure, the economic situation and the behaviour of road users significantly affect trends and play a role in explaining the current situation, where the total number of road fatalities has not been significantly reduced since 2014. Consequently, it is impossible to establish a clear correlation between the CBE Directive and non-resident road users' compliance with road traffic rules in force, or to provide clear evidence of the Directive's positive impact on road fatalities and fatal accidents.

From the perspective of external coherence, the CBE Directive has contributed to a more consistent EU road safety legal framework by complementing other measures, e.g. the 3rd Driving Licence Directive.⁵⁰ The two specific objectives of the CBE Directive — to facilitate the enforcement of road traffic rules through the cross-border exchange of vehicle registration data and to raise citizens' awareness of the rules, including the applicability of sanctions, in all EU Member States — fully complement each other.

However, the significant potential of the CBE Directive to improve road safety can be further maximised, since approximately 50 % of financial penalties for investigated road traffic offences committed by non-residents are currently not successfully enforced due to the lack of mutual assistance and cooperation between Member States in investigating road traffic offences after exchanging vehicle registration data or, because decisions issued by Member States in cases of non-payment of a financial penalty for these offences often do not fall under Council Framework Decision 2005/214/JHA.

This evaluation was carried out after less than 18 months of the CBE Directive being applied by most Member States, which is insufficient time for sufficient data and other evidence to have become available for the impacts of the Directive to be fully and soundly evaluated. However, the available data and evidence is sufficient to provide some useful initial indicators on some key aspects of the Directive's operation and impact.

⁵⁰Directive 2006/126/EC on driving licences (Recast) OJ L 413, 30.12.2006, p.18

ANNEXES

Annex 1: Procedural information

Lead DG: DG MOVE

Agenda planning reference: 2016/MOVE/048

Members of the inter-service steering group:

SG, DG JUST, DG HOME, DG DIGIT, DG MOVE

The Commission hired external consultants (Grimaldi Studio Legale with subcontractors Optimity Matrix and Kurt Salmon), legal specialists and experts in assessing the ICT implications of EU legislation (offered by DG DIGIT under the ISA Programme) to assist with the evaluation. The members and observers of the Commission's Expert Group set up to support the enforcement of road safety related traffic offences played an important role in gathering and presenting relevant information (especially during the workshop organised on 11 December 2015 in Paris, which resulted in a lot of data on the cross-border enforcement of sanctions).

The following meetings of the inter-service steering group and external consultants were organised:

30/04/2015 — first (kick-off) meeting;

19/06/2015 — second meeting, where the detailed work programme and planning of the evaluation was specified, including methodology (data collection), empirical approaches and working assumptions;

25/09/2015 — third meeting, where the following was discussed: the first results of the main desk and field research; modification indicators used in the evaluation; state-of-play of data collection; detailed planning of the work to be carried out during the rest of the study period; and preparation of the stakeholder meeting;

16/12/2015 — fourth meeting, where the structure of the evaluation study report and a first analysis of the preliminary findings, conclusions and recommendations were discussed;

05/02/2016 — fifth (extraordinary) meeting, where the final version of the evaluation study's report was discussed. The inter-service steering group approved this report on 15 April 2016.

The overall quality of the evaluation study report is assessed as good, based on the following criteria: relevance; appropriate design; reliable data; sound analysis; credible findings; valid conclusions; helpful recommendations; and clarity. These were specified in the Tender Specifications.

The Commission's evaluation staff working document was approved by the inter-service steering group on 27 June 2016.

Annex 2: Stakeholder consultation

1. Stakeholder meeting

The external consultants organised a stakeholder meeting in Brussels on 5 October 2015. A total of 46 stakeholders participated in the meeting, representing mostly Member State public authorities responsible for transport issues, namely from Austria, Belgium, France, Germany, Italy, Latvia, Luxembourg, the Netherlands, Poland, Portugal, Sweden and the UK, and also Member States' justice ministries, EU organisations directly involved in transport safety issues, and academic experts.

In order to prepare the discussion, the external consultants provided participants with the following background documents: an input paper; a recommendations paper; a questionnaire specifically designed for the meeting, and; six presentations covering all aspects of the evaluation. All of these documents, as well as the meeting agenda, minutes and the list of participants are published on:

http://ec.europa.eu/transport/road_safety/take-part/public-consultations/cbe_eval_en.htm

The discussion aimed to gather stakeholder opinions on the scope of the evaluation, the methodology, preliminary findings and recommendations for possible future actions.

The stakeholders did not raise any questions/comments regarding the scope and methodology.

They agreed on the utility and added value of an EU-wide automated approach to the cross-border exchange of information on road safety related traffic offences, while recognising that it is too early to observe the Directive's direct impact on fatalities and accidents. They stressed the importance of awareness campaigns as a complementary tool and of better understanding road users' behaviour.

The stakeholders raised the importance of distinguishing the administrative cost of EUCARIS/CBE from the cost of the CBE Directive's application and of addressing technical issues related to the gathering of statistics on searches.

They stressed the need to respect the national liability legal regimes of all Member States when addressing issues related to the identification of best practices in the automated enforcement of road traffic rules.

The stakeholders tended to agree that the enforcement of financial penalties for road traffic offences remains problematic and that in general this is due to practical difficulties, as well as to objective legal obstacles which prevent the full application of the principle of mutual recognition of financial penalties.

They agreed that there is a need to develop harmonised indicators which will make it possible to assess the quality of the enforcement of road traffic rules. It appears that the current legislative framework (Commission Recommendation 2004/345/EC on enforcement in the field of road safety and Council Decision 93/704 concerning the CARE database and reporting obligations under the CBE Directive) does not ensure that all the data necessary for the assessment of the impact of enforcement measures are gathered.

It was concluded that the CBE Directive has the potential to improve road safety and that Member States are generally satisfied with its effects. Specific follow-up procedures for the enforcement of sanctions for road safety related traffic offences are needed.

2. Targeted stakeholder online surveys

The external consultants launched the following targeted online surveys, focusing on the elements of the assessment specified under Article 11 of the CBE Directive and the general evaluation aspects of relevance, effectiveness, sustainability, efficiency, EU added value and coherence of the CBE Directive:

- online survey on end-user (Member State authorities) satisfaction with the EUCARIS software application for exchanging vehicle registration data, launched on 8 October 2015 and finished on 30 October 2015,
- online survey with specific questions addressed to public authorities (ministries of transport and justice, law enforcement and judicial authorities), launched on 10 August 2015 and finished on 30 September 2015,
- online surveys with specific questions addressed to other stakeholders (national and international NGOs, national road safety agencies, insurance company associations and European organisations dealing with road safety), launched on 10 August 2015 and finished on 30 September 2015.

The results of the targeted surveys are taken into account in the evaluation report.

3. Open public consultation

The Commission ran an open public consultation from 27 November 2015 to 19 February 2016, particularly addressing citizens (general public) to gather their views on:

- the level of pursuing and prosecuting non-resident drivers,
- the compliance of non-resident drivers with road traffic rules in force,
- the publication of Member States' road traffic rules (awareness),
- the impact of the CBE Directive on their own behaviour and the behaviour of non-resident drivers.

The questionnaire was designed to help to provide answers to the evaluation questions. The Commission received only 31 replies, of which only 10 were from citizens, 5 from business or their associations, 11 from NGOs mainly representing automobile clubs, and 5 from public authorities.

The analytical report and other relevant documents are published on:

http://ec.europa.eu/transport/road_safety/take-part/public-consultations/cbe_eval_en.htm

The results of the open public consultation did not add to the available information for the evaluation report.

Annex 3: Methods used in preparing the evaluation

Specific indicators were developed for each evaluation question at the start of the evaluation and were subsequently modified in the light of preliminary findings (data availability). The following methodologies were used in the evaluation:

1. Desk research

Desk research on secondary data was used to screen and collect legal, policy and technical information from relevant documentation. The following were reviewed and analysed: publicly available statistics on road traffic offences detected on EU roads, road fatalities and fatal accidents; national measures transposing the CBE Directive in 25 Member States; previous studies on road safety issues; academic books/articles on road safety, the harmonisation of criminal and administrative law in the EU and the application of the principle of mutual recognition of financial penalties. Literature related to the impact of introducing automatic checking equipment on road safety and to some Member States' national legislation on automatic checking equipment and type-approval procedures was also reviewed.

2. Consultations and surveys

Besides the stakeholder meeting and targeted stakeholder online surveys, questionnaires were emailed to Member State authorities and a questionnaire was addressed to other relevant transport stakeholders. These aimed to gather the opinions of Member State public authorities involved in the enforcement of road traffic rules (such as transport ministries, interior ministries, ministries of justice and police authorities), national and European NGOs, and research centres involved in the road transport sector on the CBE Directive's impact on road safety, EU citizens' awareness of the necessity to comply with road traffic rules, and all other issues covered by the evaluation. In total, 43 written replies were received, only one of which came through the online version of the questionnaires.

An additional questionnaire on statistical data was designed in October 2015 after the first data collection phase, in order to collect additional data from Member States on the functioning of the EUCARIS/CBE electronic tool and administrative costs related to the implementation of the CBE Directive. This questionnaire targeted Member State authorities such as interior ministries and transport ministries.

3. Additional interviews and bilateral stakeholder contacts

In order to clarify the answers received from the surveys and confirm the information collected through desk research, the external consultants held oral interviews with selected stakeholders, mostly from Member States' ministries of transport, interior ministries, ministries of justice and police authorities. These interviews made it possible to improve the quality of responses received to the questionnaires, mainly in terms of qualitative data. In addition, qualitative and quantitative data on the enforcement of road traffic rules were collected through follow-up emails addressing the Member State public authorities. In total, 17 oral interviews were held.