



*Association Européenne des Concessionnaires
d'Autoroutes et d'Ouvrages à Péage*

Respecting the Rules

Better Road Safety Enforcement in the European Union

- Consultation paper-

ASECAP observations



ASECAP is the European professional Association of operators of toll road infrastructures. It gathers and represents 127 organisations that manage a toll network of over 37,000 km in 17 countries.

ASECAP's mission is to promote toll as the most efficient tool to finance the construction, operation and maintenance of motorways and other major road infrastructures.

ASECAP and its members are committed to:

- Exchanging information and experience, participating in research programmes and further developing and enhancing the direct “user/payer” toll system as an instrument of a sustainable, safe and environmentally friendly transport policy;
- Strengthening the efficiency of their networks and permanently improving the level of services provided to the European citizens, by keeping up with the latest technology developments and the best operational practices.

RESPECTING THE RULES

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BETTER ROAD SAFETY ENFORCEMENT IN THE EUROPEAN UNION

AN ABSTRACT FOR AN ASECAP POINT OF VIEW:

*ASECAP and its members have on a number of occasions submitted to to the EU policy makers and political bodies the basic ASECAP understanding that “**safety is a concept in which every actor involved has a clearly defined role to play**”. The human factor, driver or pedestrian, the vehicle and the infrastructure are in a permanent interaction where in a number of times (and always in an unpredictable way) a misjudgement of the traffic reality (ies) appears.*

- REPLIES TO THE QUESTIONS -

1. Do you agree with the definition of the problem and the objectives of the intended EU actions?

Please examine the following important safety considerations from an ASECAP perspective :

Problem definition:

- *Encouraging road users to improve their behaviour by complying with basic road safety rules, still to be defined.*

Key points:

- *Member States have varying safety records.*
- *Member States enjoy a large degree of autonomy in the way they act to improve road safety.*
- *Road safety penalties and road safety enforcement procedures vary considerably between Member States.*

Key point to be solved:

- *Commitment to enforce and prosecute in a fair way both residents and non-residents in each EU state on road code violations.*

Towards a Community action:

- *The road safety issues should cover all traffic offences in all the EU roads; however, as a starting pilot programme, a number of urgent EU actions should be undertaken in the main traffic offences already identified. No need to limit the EU actions to the TENs network given that in any case the TENs safety level is the highest in Europe.*

Based on the above remark, the EU actions should lead to:

- *Defining a common enforcement procedure at EU level based on common national administrative patterns (exchange of relevant road data; registering the offence; identifying the owner or the driver; establishing the offence; sending the penalty notice; execution of the sanction).*

- *Giving an end to the existing bilateral agreements (often between neighbouring countries).*
- *Establishing a Sole Pan European Road Safety Entity with clear responsibilities, rules, procedures, rights and obligations.*

Please find below ASECAP specific comments on questions n. 2 and 3:

2. Should EU actions be limited to the Trans-European Road Network or cover all EU roads?

*ASECAP considers that the European Union's actions should **cover all roads** in order to have a uniform, non-discriminatory policy. This should ensure that the impact is even stronger since potential offenders would be liable to the same sanctions on the TERN network as well as on other types of roads.*

3. Should EU actions be limited to the three main traffic offences responsible for road accidents and deaths, namely speeding, drink-driving and non-use of seat belts, or should they cover all traffic offences?

Obviously Community actions should focus above all on the three main offences responsible for fatal road accidents: speeding, drink-driving and non-use of seat belts. It is essential that, in these areas, enforcement of sanctions for road offences should apply fully to all users.

*It would therefore be a pity to limit the scope of the Community action to three offences. It would be worthwhile to grasp the opportunity of a new legislative framework to **propose a European level enforcement policy for all traffic offences, including cross-border enforcement for non-resident drivers.***

*ASECAP would particularly welcome a European level action against **fraud on toll road collection.***

Motorway companies share the European Union's objective of developing an homogeneous and continuous level of services and safety on the Trans-European Road Network.

Moreover, it was to that end that the European Commission proposed Directive 2004/52/EC on the interoperability of electronic toll collection systems in Europe, which set out the terms and

conditions for the implementation of a “European Electronic toll collection system” (EETS). This service will enable drivers to have access to the European Union network with “a single on-board unit, a single contract”.

This involves defining technical equipment compatible with the technologies mentioned in the Directive (GNSS/GPRS and DSRC). Although this does not pose any specific problems, it does presuppose a standardised contractual framework, irrespective of the legal status of the toll operators, **as well as a harmonised legal framework to avoid the emergence of European toll fraud.**

Laws and regulations must be adopted to harmonise and organise at European level the enforcement of toll fraud sanctions.

Such measures are an indispensable prerequisite to any migration in time to barrier-free toll systems. Such systems, which are recommended in Directive 2004/52/EC¹, would make a significant contribution to improving the fluidity of traffic on the TERN-T.

To ensure that such systems functions correctly, it is also necessary to set up, before their introduction:

- ⇒ **a legislative and judicial measures to detect and identify people guilty of fraud**
- ⇒ **an effective enforcement and sanctions system**

The countries which have installed such systems have put in place legislative and judicial bodies, and have implemented measures for the pursuit and punishment of people guilty of fraud in order to establish a satisfactory level of security on the national territory; that is the case of Austria, Germany, Portugal and Spain.

Nevertheless, the representatives of this countries and in particular those that have high cross-border traffic (Austria, Germany) indicate that the **current measures, both legal and judicial provisions, do not provide a satisfactory solution in the case of non-resident offenders when they have crossed national boundaries - or more specifically the boundaries of the territory controlled by national authorities.**

Migration to a barrier-free toll system using chiefly electronic tolls, although possible technically in all countries, **depends very much on the development of the legal framework and the reality of enforcement and sanctions.** However, the reality is that, in certain countries, it is impossible to remove physical barriers, since the public authorities have not given operators the necessary powers to deploy appropriate enforcement methods and sanctions to recover amounts due. Such powers exist only in Austria and Portugal.

Furthermore, within the framework of existing toll systems, the problem posed by people committing fraud, of whatever nature, starting with “non-payers” is almost insoluble once the user has left the network or the national territory concerned, because of shortcomings in

¹ Article 2.3: “It is recommended that new electronic toll systems brought into service after the adoption of this Directive use the satellite positioning and mobile communication technologies listed in paragraph 1”.

cooperation between judicial systems, and the lack of coordination as regards the execution of sanctions.

These problems are exacerbated depending on the degree of dematerialisation of the physical sanction of non-payment through the removal of barriers.

A working group of experts was especially mandated by the European Commission, within the framework of its work in process for the implementation of Directive 2004/52/CE, to draw up recommendations for cross-border enforcement/sanctions for the European Electronic toll service.

The enclosed report of the group of experts contains several ideas for further consideration on the main aspects of the problem:

- *defining the notions of EFC (Electronic Fee Collection) offences and fraud*
- *the methods of recording offences*
- *recovering unpaid amounts*

As the consultation document points out, the Vera2 project also addressed in its conclusions the question of enforcement-sanctions for the non-payment of tolls.

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