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Court of Justice of the European Union
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Judgment in Case C-43/12
Commission v Parliament and Council

The Court annuls the directive on cross-border exchange of information on road safety related traffic offences

The effects of the directive are nevertheless maintained for a maximum one-year period

On 19 March 2008, the Commission submitted to the Parliament and the Council a proposal for a directive seeking, in essence, to facilitate the exchange of information concerning certain road traffic offences and the cross-border enforcement of the sanctions attached to them. That proposal was based on the powers of the EU in relation to **transport safety**¹. On 25 October 2011, the Parliament and the Council adopted Directive 2011/82², using however as a legal basis the EU's competence in the field of **police cooperation**³. Taking the view that the directive had been adopted on the incorrect legal basis, the Commission brought annulment proceedings before the Court of Justice.

The directive sets up a procedure for the exchange of information between Member States in relation to eight road traffic offences (speeding, non-use of a seat-belt, failing to stop at a red traffic light, drink-driving, driving under the influence of drugs, failing to wear a crash helmet, use of a forbidden lane and illegally using a mobile telephone). The Member States may thus access each other's national data concerning vehicle registration in order to determine the person liable for the offence.

In today's judgment, the Court states that both the aim and the content of the directive must be examined in order to determine whether it could validly be adopted on the basis of police cooperation. With regard to the **aim** of the directive, the Court holds that the main or predominant aim of the directive is to improve road safety: while it is true that the directive sets up a system for the cross-border exchange of information on road safety related traffic offences, the fact remains that the precise aim of establishing that system is to enable the EU to pursue the goal of improving road safety. With regard to the **content** of the directive, the Court states that the system for the exchange of information between the competent authorities of the Member States provides the means of pursuing the objective of improving road safety. Measures to improve road safety fall within transport policy. The Court concludes from this that, both in respect of its aim and its content, the directive is a measure to improve transport safety and should therefore have been adopted on that basis.

The Court also points out that the directive is not directly linked to the objectives of police cooperation, in so far as they cover, first, the framing of a common policy on asylum, immigration and external border control and, second, the prevention of crime, racism and xenophobia.

Having thus decided to annul the directive on those grounds, the Court considers the temporal effects of that annulment, as the Commission wished. In that regard, the Court states that, given the importance of the pursuit of the aims of Directive 2011/82 concerning the improvement of road safety, the annulment of the directive without maintaining its effects could have negative consequences for EU transport policy. The Court also takes into account the fact that the period for

¹ Article 71(1) EC, now Article 91(1)(c) TFEU.

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 2011 L 288, p. 1).

³ Article 87(2) TFEU.

transposing the directive into national law expired on 7 November 2013. Accordingly, the Court considers that there are important grounds of legal certainty why the effects of that directive should be maintained until the entry into force, within a reasonable period of time — which may not exceed twelve months from the date of delivery of the judgment — of a new directive based on the correct legal basis (that is to say, transport safety).

NOTE: An action for annulment seeks the annulment of acts of the institutions of the EU that are contrary to EU law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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