

AGREEMENT

between
the Republic of Bulgaria, the Republic of Croatia, Hungary and the Republic of Austria
on Facilitating Cross-border Enforcement of Road Safety Related Traffic Offences

The Republic of Bulgaria, the Republic of Croatia, Hungary and the Republic of Austria
(hereinafter: Contracting Parties);

Recalling the cooperation between their competent Ministries in the framework of the Salzburg Forum;

Recognizing the importance of international cooperation in the area of strengthening road safety with the objective of reducing fatalities, injuries and material damage;

Keeping in mind the particular difficulties encountered in the enforcement of road safety related traffic offences committed with a vehicle registered in a State other than the State of the offence;

Recalling the high number of victims of road traffic related accidents;

And pursuant to these common aims and interests in generating enhanced mechanisms for effective cooperation between competent agencies responsible for enforcing road safety related traffic offences which is a key priority for Salzburg Forum states;

Taking into account the international treaties in the field of cooperation in law enforcement, as well as the EU acquis;

Fully respecting privacy and the protection of personal data in cross-border information exchange;

Fully respecting and enforcing the fundamental rights and principles recognised by Article 6 of the Treaty on the European Union and reflected in the Charter of Fundamental Rights of the European Union, in particular Chapter VI thereof;

Without prejudice to the instruments of the European Union on mutual legal assistance in criminal matters;

With regard to the provisions of the 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, in particular recital (8) of its preamble, as regards the automated search of the data of the holder or owner of a vehicle involved in a road safety related traffic offence;

Have agreed as follows:

- 2 -

Article 1 **Scope and General Provisions**

(1) The Contracting Parties shall cooperate in the cross-border enforcement of the following traffic offences:

- a) road safety related traffic offences as set forth in Article 2 of the 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 (hereinafter “the Directive”)¹, and
- b) offences related to non-cooperation of the holder, owner or otherwise identified person suspected of having committed the road safety related traffic offence with the competent authorities of the State of the offence in the investigation of road safety related traffic offences as set forth in sub-paragraph a) if foreseen by the national law of the State of the offence.

(2) The cooperation in the cross-border enforcement under this Agreement shall include cross-border investigation of traffic offences and cross-border execution of a decision requiring a financial penalty related to a traffic offence to be paid.

(3) The Contracting Parties shall cooperate in the cross-border enforcement of traffic offences as referred to in paragraph (1), regardless of their administrative or criminal nature under the national law of the Contracting Parties. Cooperation shall also be afforded in connection with proceedings as referred to in paragraph (1) which relate to traffic offences for which a legal person may be held liable in the State of the offence.

Article 2 **Definitions**

For the purpose of this Agreement, the following definitions shall apply:

- a) “State of the offence” shall mean the Contracting Party where the traffic offence has been committed.
- b) “State of registration” shall mean the Contracting Party where the vehicle which the traffic offence has been committed with is registered.
- c) “State of residence” shall mean the Contracting Party where the holder or owner of the vehicle, the driver or the otherwise identified person suspected of having committed the road safety related traffic offence has his/her registered residence or, in the case of a legal person, where it has its registered seat.

¹ Official Journal of the European Union L 288 of 5.11.2011, p. 1.

- 3 -

- d) “Issuing State” shall mean the Contracting Party in which a decision within the meaning of this Agreement was delivered.
- e) “Executing State” shall mean the Contracting Party to which a decision within the meaning of this Agreement has been transmitted for the purpose of execution.
- f) “Decision” shall mean a final and enforceable decision issued by a competent authority of a Contracting Party, requiring a financial penalty related to a traffic offence to be paid whereby judicial review is available in accordance with the national law.
- g) “Cross-border investigation of traffic offences” shall mean the procedure to identify the holder or the driver of the vehicle.
- h) “Cross-border execution” shall mean the procedure of enforcing a decision in a State other than the State of the offence.
- i) “Financial penalty” shall mean the obligation to pay a sum of money imposed by a decision, in accordance with the national law of the respective Contracting Party.
- j) “Driver” means a person who was driving a vehicle at the time the road safety related traffic offence as defined by Article 1 paragraph (1) a) of this Agreement was committed with this vehicle.

Article 3 Information Letter

(1) For the purpose of informing the holder or the owner of the vehicle or the otherwise identified person suspected of having committed the road safety related traffic offence, in accordance with Article 5 of the Directive, the Contracting Parties shall use either a form according to their national law or the template of the information letter laid down in Annex II of the Directive.

(2) In compliance with their national law, the Contracting Parties may shorten the period of 60 days laid down in the template of the information letter in Annex II of the Directive offered for completing and returning the information letter.

Article 4 Identification of the Driver

(1) In cases where the national law of the State of the offence requires the identification of the driver and the driver could not be identified by the use of the form or information letter as referred to in Article 3 paragraph (1), upon request of the State of the offence, the State of registration or the State of residence shall,

- 4 -

- a) question the persons set forth in Article 3 paragraph (1) in order to establish the identity and the residence of the driver, and
 - b) communicate its findings to the State of the offence.
- (2) For the purpose of cooperation under paragraph 1 the national contact point of the State of the offence shall send an electronically structured request to the national contact point of the State of registration or the State of residence using a secure interoperable electronic system.
- (3) Details of the administrative and technical arrangements for the procedure and the request shall be set forth in the implementing agreement as referred to in Article 8.
- (4) For the purpose of cooperation under this Article, each Contracting Party shall designate a national contact point. The powers of the national contact point shall be governed by the national law of the respective Contracting Party.

Article 5 **Sending and Service of Documents**

- (1) Each Contracting Party shall send documents falling within the scope of this Agreement to persons who reside on the territory of another Contracting Party directly by post.
- (2) Where there is reason to believe that the addressee does not understand the language in which the document is drawn up, the document, or at least the important passages thereof, must be translated into (one of) the language(s) of the Contracting Party in the territory of which the person is staying. If the authority by which the document was issued knows that the addressee understands only some other language, the document, or at least the important passages thereof, must be translated into that other language.
- (3) Documents referred to in paragraph (1) may be sent via the designated national contact point of the requested Contracting Party only if:
- a) the address of the person for whom the document is intended is unknown or uncertain; or
 - b) the relevant procedural law of the requesting Contracting Party requires proof of service of the document on the addressee, other than the proof that can be obtained by post; or
 - c) it has not been possible to serve the document by post; or
 - d) the requesting Contracting Party has justified reasons for considering that dispatch by post will be ineffective or inappropriate.

- 5 -

(4) In the case of paragraph (3) sub-paragraph a), the national contact point of the State of registration or the national contact point of the State of residence shall establish upon an electronically structured request received via a secure interoperable electronic system from the national contact point of the State of the offence, the address of the person for whom the document is intended.

(5) In the cases of paragraph (3) sub-paragraphs b) to d) and if the documents to be sent and serviced are available in electronic version, the national contact point of the State of the offence shall send documents with an electronically structured request to the national contact point of the State of registration or the national contact point of the State of residence using a secure interoperable electronic system.

(6) In the cases of paragraph (3), the national contact point of the requested Contracting Party shall inform the national contact point of the requesting Contracting Party of the result of the sending and service of documents, as well as of the name and address of the competent authority responsible for delivering the document.

(7) Details of the administrative and technical arrangements for the procedure and the request shall be set forth in the implementing agreement as referred to in Article 8.

(8) For the purpose of cooperation under this Article, each Contracting Party shall designate a national contact point. The powers of the national contact point shall be governed by the national law of the respective Contracting Party.

Article 6 **Cross-border Execution of Decisions**

(1) The Contracting Parties shall cooperate in the cross-border execution of decisions as defined in Article 2 sub-paragraph f). For this purpose, they shall follow the procedures of the Council Framework Decision 214/2005/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties² (hereinafter: “the Framework Decision”), unless this Agreement, in accordance with Article 18 of the Framework Decision, provides otherwise.

(2) For the purpose of this Agreement, the issuing State shall transmit the decision in the form of an electronically structured certificate [hereinafter: “certificate”].

(3) The executing State shall recognise a certificate transmitted by the issuing State without any further formality being required and shall forthwith take the necessary measures for its execution.

² Official Journal of the European Union L 76 of 22.3.2005. p. 16.

- 6 -

- (4) The executing State may refuse the execution in the following cases:
- a) the data set out in the certificate is incomplete; or
 - b) the enforceability of the decision has lapsed under the national law of the executing State; or
 - c) the financial penalty stipulated by the decision does not exceed 50 Euros or the equivalent thereof in another currency.
- (5) The transmission of the execution shall take place by submission of the certificate from the national contact point of the issuing State to the national contact point of the executing State using a secure interoperable electronic system.
- (6) Upon request of the executing State, the issuing State shall provide
- a) the text of the decision, and/or
 - b) additional information which the executing State deems necessary for the execution of the decision.
- (7) Details of the administrative and technical arrangements for the procedure and the certificate shall be set forth in the implementing agreement as referred to in Article 8.
- (8) The issuing State shall inform the executing State on any decision or measure that affect the data set out in the certificate.
- (9) Money obtained from the execution of the decision shall accrue to the executing State, unless the issuing State and the executing State agree otherwise.
- (10) For the purpose of cooperation under this Article, each Contracting Party shall designate a national contact point. The powers of the national contact point shall be governed by the national law of the respective Contracting Party.

Article 7 **Data protection**

- (1) The Contracting Parties shall take the measures necessary to ensure that the relevant provisions of the respective legislation of the European Union on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters are applied.

- 7 -

(2) The personal data processed under this Agreement shall not be used for purposes other than those of the request under this Agreement. The Contracting Parties shall comply with the obligations on the conditions of use and of temporary storage of the personal data. The Contracting Parties shall ensure that a time limit for the storage of personal data is established and shall ensure the deletion of the personal data if it is not further necessary or the time limit has passed.

(3) The Contracting Parties shall ensure that the data subjects are entitled to have access to their processed data, as well as to their rectification, erasure and blocking, to compensation and to judicial redress.

Article 8 Implementing agreement and Users' Guide

(1) On the basis and within the scope of this Agreement, the Governments of the Contracting Parties shall conclude an agreement for its implementation.

(2) With regard to the practical aspects of the cooperation and proper implementation under this Agreement, the Contracting Parties may prepare a legally non-binding Users' Guide.

Article 9 Evaluation of implementation and development of the Agreement

At the request of any Contracting Party, a joint working group consisting of representatives of the Contracting Parties shall evaluate the implementation of the Agreement and shall identify any need for supplements or amendments.

Article 10 Costs

The Contracting Parties shall not claim from each other costs resulting from the implementation and application of this Agreement.

Article 11 Relations to other international obligations

The provisions of this Agreement shall not affect the obligations of the Contracting Parties under other bilateral or multilateral international agreements. This Agreement shall not affect the current or future obligations of the Contracting Parties arising from their membership in the European Union.

- 8 -

Article 12 Dispute Settlement

In the event of any dispute regarding this Agreement, the Contracting Parties shall consult each other in order to facilitate its resolution.

Article 13 Depositary

The Government of Hungary shall act as the Depositary of this Agreement.

Article 14 Accession

- (1) This Agreement shall be open for accession by Member States of the European Union, the European Economic Area and by Switzerland.
- (2) The instrument of accession shall be deposited with the Depositary, which shall notify the other Contracting Parties of the deposit of the instrument of accession.
- (3) The Agreement shall enter into force for any acceding State ninety days after the deposit of its instrument of accession.

Article 15 Final provisions

- (1) This Agreement shall enter into force ninety days after the deposit of the second instrument of ratification, acceptance or approval between the Contracting Parties which have ratified, accepted or approved it. For the other Contracting Parties, this Agreement shall enter into force ninety days after the deposit of their instrument of ratification, acceptance or approval.
- (2) Any Contracting Party shall, at the time of the deposit of the instrument of ratification, acceptance or approval, or within 30 days thereafter, notify the depositary of the designated national contact point(s) under Article 4 paragraph (4), Article 5 paragraph (8) and Article 6 paragraph (10), and the national law on “the offence related to non-cooperation” under Article 1 paragraph (1) sub-paragraph b).
- (3) Notwithstanding the procedures set forth in paragraph (1), for the Republic of Croatia this Agreement shall enter into force after her accession to the European Union.

- 9 -

(4) This Agreement shall be concluded for an indefinite period of time. Any Contracting Party may withdraw from this Agreement by written notification to the Depositary, which shall immediately notify the other Contracting Parties. The withdrawal shall take effect, in respect of the withdrawing Contracting Party, six months after the date of the deposit of the instrument of withdrawal with the Depositary.

(5) This Agreement shall be applied between two Contracting Parties only in the case of traffic offences which were committed after the entry into force of the Agreement for these two respective Contracting Parties.

Done in Mátraháza, on 11 October 2012 in a single original copy in the English language.

For the Republic of Bulgaria

Vuchkov

For the Republic of Croatia

Ostojić

For Hungary

Pintér

For the Republic of Austria

Mikl-Leitner

