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From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Proposal for a directive of the European Parliament and of the Council
facilitating cross-border exchange of information on road safety related
traffic offences (first reading)
- Adoption of the legislative act (**LA + S**)
= Statements

Statement by Germany

"Concerning Article 4(3)(3):

The paragraph,

"The Member State of the offence shall, under this Directive, use the data obtained in order to establish who is personally liable for road safety related traffic offences listed in Article 2".

is taken to mean that the person who is personally liable within the meaning of this provision can be none other than the driver as it is only he/she who has actually committed the offence. Any data on vehicle operators that is supplied may therefore, in the German delegation's view, be used solely to investigate who the driver is".

Statement by the United Kingdom and Ireland

The United Kingdom and Ireland fully support the road safety objectives of this revised proposed Directive and appreciates the additional two year transposition period that has been granted to the United Kingdom, Ireland and Denmark.

However, the United Kingdom and Ireland are disappointed that they have not been given sufficient time in order to properly consider the impact of the proposal, including potential costs on courts which would have to enforce any subsequent prosecutions pursuant to the new measure. Although the United Kingdom and Ireland appreciate that the existing Directive 2011/82/EU (facilitating the cross-border exchange of information on road safety related traffic offences) is already in force in other Member States, the United Kingdom, Ireland and Denmark did not participate in that measure following the application of Protocols 21 and 22 to the Treaties. Accordingly, following its annulment by the Court of Justice in its judgment in case C-43/12, the proposed Directive represents new requirements for the United Kingdom, Ireland and Denmark.

The United Kingdom and Ireland note the judgment of the Court of Justice that Directive 2011/82/EU should have had a transport legal base (Article 91(1)(c) TFEU) rather than a police co-operation legal base (Article 87(2) TFEU), in light of its aim and content. It remains the view of the United Kingdom and Ireland that matters which do pertain to the enforcement of criminal offences should be considered as being brought forward pursuant to Article 87 TFEU. In this regard, we note the possibility of a future review of this measure considering such aspects as the harmonisation of road traffic rules and enforcement and would like to make clear that where a proposed measure contains content which would be an exercise of competence by the Union pursuant to Title V Part III TFEU, then Protocol 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice will apply.