
Green light on new road map

An EU-funded project aims to reduce ambiguity about the application of European traffic laws and analyse new legislation underpinning cross-border enforcement

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Decriminalisation has improved compliance with parking and minor traffic regulations since it was introduced in the early 1990s. The majority of UK drivers obey local traffic laws and those who receive penalty charge notices for infringements quickly pay the fees.

Recent data from London reveals local boroughs issue six million penalty charge notices per year, 83 per cent for illegal parking. Approximately three quarters of the penalties issued to UK-registered vehicle owners are paid within a fortnight.

UK drivers pay because they recognise they have broken the law; they understand the financial incentive to pay promptly, and they know they can be identified through the Driver and Vehicle Licensing Agency (DVLA) and pursued through the civil justice system.

In contrast, fewer than five per cent of the 330,000 penalties issued by London boroughs to foreign-registered vehicles per year ever get paid. Owners of these vehicles probably know they have broken the law, but many also know they are unlikely to be traced and pursued for payment.

Non-payment by foreign vehicles may appear a minor issue, but it is significant. It leads to inequalities in the treatment of vehicle owners based on where their vehicle is registered – discrimination exists between compliant nationals and non-compliant visitors from another member state.

NO LEGAL REMEDIES

The SPARKS Programme, funded by London's Enforcement Task Force, lobbies UK government and the EU to improve compliance with decriminalised traffic laws. During 2006, it investigated the body of EU legislation and regulations that addresses enforcement across national borders and found that none apply to civil and administrative law.

Advice from the then Department for Constitutional Affairs, Home Office and independent legal counsel, was that enforcement provisions under the civil processes set out in the Brussels I Regulation (Council Regulation [EC] no. 44/2001)

and subsequent laws, such as regulation (EC) no 805/2004, which created the European Enforcement Order, explicitly exclude most claims by local authorities and other public law bodies.

Civil penalties for offences formerly within the criminal jurisdiction also fall outside the scope of new European criminal law developments, including COPEN 24 (Council Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties).

Currently, no legal remedies in EU law exist that allow enforcement of UK decriminalised claims across national borders, and no programmes address mutual recognition of administrative decisions or related administrative laws.

“More than 300,000 people are getting away with parking illegally and causing traffic congestion, accidents and irritation to other drivers, residents and pedestrians. And that is just in London,” said Bill Blakemore, SPARKS Programme manager.

SPARKS expects the issue to gain focus across Europe in the next year or so, as municipalities follow the UK's lead and decriminalise local parking and traffic laws. The Netherlands, Belgium and Malta have already introduced variants as the UK rolls out road-user charging and low emission zones.

“There is confusion among member states about whether existing EU legislation can be used to enforce payment of decriminalised traffic penalties,” said Mr Blakemore. “Some believe the COPEN 24 Council Framework Decision, which is due to become law during 2007, applies the principle of mutual recognition to all financial penalties. But our legal experts say categorically that it will only apply to criminal fines. No legal remedies are available to local authorities seeking to recover civil administrative debts across national borders against citizens of other EU member states.”

LEGAL RESEARCH

SPARKS has developed the Eurosparks legal research project, which analyses EU and member state legislation relating to



mutual recognition, cooperation between national court services and debt recovery. The project won European Commission (EC) backing at the end of 2006 with a €100,000 injection of funding.

Initial focus is a review of existing legislation and legal principles, alongside a comparison of custom and practice in parallel policy areas – such as the environmental, tax and family law – in a number of EU member states, including the UK, France, Germany, Italy and the Netherlands.

Professor Patrick Birkinshaw, Director of the Institute of European Public Law at Hull University and editor of *European public law*, is leading a multinational team of legal academics conducting a review of primary sources, including treaties, secondary legislation, European Court of Justice and national case law, as well as current commentary. They are also examining the comparative policy areas.

Their findings will be complimented by responses from French, German, Dutch and Italian legal experts, who will collectively draw conclusions about the scope for revising EU law. Emeritus Professor David McClean of Sheffield University, an expert in cross-border judicial co-operation, will peer review their recommendations before they are presented to legal audiences at a series of seminars across Europe during the autumn.

“This is a serious problem that has to be addressed and resolved. Different legal systems conceptualise enforcement in different ways; this creates barriers to inter-operability. We hope our work will produce a clear understanding of how legal systems can operate with a greater degree of cooperation and efficiency,” said Professor Birkinshaw.

Patrick Troy, Transport for London Head of Traffic Enforcement and Chair of the Eurosparks project board added: “New problems that have arisen as a result of increasing mobility within the EU, emerging technologies and the move from criminal to civil enforcement regimes. We hope that, through participation in this project, solutions will be developed at a European level to encourage citizens to respect road traffic

laws, promote fairness for all citizens and help improve safety for road users in the countries they visit”.

DISSEMINATION

The Hull legal team plans to further refine the research findings and recommendations before wider dissemination in a second series of seminars in the autumn that culminates in consultation with the EC and development of the road map for legal change.

Robbert Verkuijlen of VNG, the Dutch association of local municipalities, acts as dissemination partner in the Netherlands. He said: “The problems seem to be the same in different European countries. We’re taking different avenues towards the problem, one is at national level but we think it worthwhile to do something at international level as well. Holland is a relatively open country with much foreign traffic. Equality of taxation is something we value very much”.

Belgian dissemination partner Erwin Debruyne, of the Flanders municipalities association VVSG, added: “We organised a meeting here in Belgium with all the local stakeholders – local police, internal affairs, justice, mobility. It turned out decriminalisation was the main problem. We have some agreements with other EU countries but all have to do with criminal offences. It shouldn't be too difficult to identify possible solutions because we already have legal solutions for criminal offences”.

The SPARKS Programme was created by London's Enforcement Task Force, a group of organisations that coordinate enforcement activities across the capital. Members come from Transport for London, London Councils, London Technical Advisers' Group, Metropolitan Police, DVLA and Vehicle and Operators Services Agency. For further information, visit www.sparkproject.org and www.eurosparks.org.

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