



Road traffic offences in Europe

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I. Introduction

“When in Rome, do as the Romans do!” – these words uttered by Saint Ambrose in 387 AD still apply unreservedly to international road traffic today: Both foreign road users driving their vehicles in the Netherlands or in Germany and Dutch or German road users driving abroad must comply with the respective national rules of the road – or risk bearing the consequences for violations.

To many traffic lawyers, foreign fine regulations are a riddle wrapped in an enigma. This is because the drivers concerned are often faced not only with heavy sanctions in the form of drastic fines and disqualification from driving, but also with unfamiliar procedural rules – and, in most cases, barely comprehensible legalese in a foreign language. This lack of knowledge often leads to misunderstandings, which can become costly given the possibility of mutual enforcement of monetary sanctions within the EU. In

order to avoid this, it is therefore all the more important to be familiar with the system of foreign fines and their cross-border enforcement.

The following comments summarize the current legal basis for the prosecution of traffic offences and the enforcement of fines in Europe as well as in selected holiday destinations.



Facilitate the cross-border enforcement of traffic offences.



II. Mutual enforcement of traffic offences in Europe

In addition to various bilateral agreements governing the exchange of vehicle owner data in the case of traffic offences, the **EU Directive 2015/413/EU facilitating cross-border exchange of information on road-safety-related traffic offences**¹⁾ is important at EU level. The primary objective of the Directive is to facilitate the cross-border enforcement of traffic offences by the competent authorities within the EU. Aside from regulating the automated exchange of driver and vehicle owner data between EU Member States in relation to specific cases of road safety-related traffic offences, it also provides uniform modalities for informing the person responsible – according to the respective national laws – for the offence. The Directive was due to be implemented by the Member States no later than 6 May 2015 (6 May 2017 for Denmark, the United Kingdom and Ireland).

Key elements of the Directive include the EU-wide exchange of vehicle and vehicle owner data on the basis of the *European Car and Driving Licence Information System (EUCARIS)* as well as a uniform information letter to the person responsible for the offence about the consequences of the fine proceedings in the language of the country where the vehicle concerned was registered. The scope of the Directive presently comprises only eight road-safety-related offences: Speeding, not wearing a seatbelt, red light offence, driving under the influence of alcohol/drugs, not wearing a helmet, unauthorised use of a lane, and phoning while driving without hands-free car kit.

One of the positive effects of the Directive is that the authorities of the Member State in which the traffic offence occurred can send the penalty charge notice for the above-mentioned traffic offences directly to the person responsible in the other Member State – without detour or further recourse to the authorities there. The now uniform requirements for information on the offence also make the notices much easier to understand for the recipients. Only easy-to-understand and, therefore, comprehensible notices will raise awareness for foreign traffic penalties among motorists.

The European Commission intends to revise the Directive by 2021 and presented a roadmap for this purpose on 17 March 2019.²⁾ One aspect under review is to extend the scope of offences addressed by the Directive.

III. Enforcement of financial penalties for traffic offences

1. *Status quo on the implementation of EU Framework Decision on the mutual recognition and enforcement of financial penalties (2005/214/JHA)*³⁾

The EU framework decision enables the mutual enforcement of binding decisions by criminal courts or administrative authorities regarding the payment of fines of at least € 70 for traffic offences. By March 2019, all EU Member States except Ireland and Greece had adopted the framework decision into their respective national law.

When implementing the framework decision, the German legislator introduced specific regulations reflecting German legal and constitutional principles. In this connection, the refusal to enforce in cases of liability of the vehicle holder provided in Section 87b no. 3 ID 9 of the law on international mutual legal assistance in criminal matters (IRG) has a bearing on the Dutch judiciary: If the fine was imposed on the basis of legal provisions in the country of perpetration making the vehicle holder liable for traffic offences – as is the case in the Netherlands – and the German vehicle holder concerned explicitly denies any personal fault towards the German law enforcement authority, enforcement of the fine is declined.

In Germany, 10,477⁴⁾ foreign requests for enforcement in accordance with the framework decision were submitted to the German Federal Office of Justice (Bundesamt für Justiz / BfJ), which is the competent enforcement authority in Germany, in 2018 alone. The vast majority of these requests (approx. 98%) came from the Netherlands, most of them concerning traffic offences. Since the framework decision was implemented in 2010, a total of 72,000 requests have been received in Germany. In 18,000 cases enforcement was declined – one reason among others being the absence of personal fault.

2. *Further bilateral enforcement options*

Germany and Austria concluded a bilateral treaty on official and legal assistance in administrative matters in 1988, which has been in force since 1990. This treaty enables the mutual collection of fines in the amount of € 25 or more. It plays a major role in practice, because the procedure governed by it is simpler than the procedure under the EU framework decision.

Between Germany and Switzerland, there is currently no effective legal basis for the mutual col-

1. Official Journal of the EU L 68 of 13 march 2015, p. 9 et seq.
2. European Commission Inception impact assessment - Ares(2019)1732201.
3. Official Journal of the EU L 76 of 22 march 2005, p. 16 et seq.
4. All information: provided as at 1 Feb. 2019, source: BfJ.

lection of financial penalties. However, with its decision of 25 April 2018, the Higher Regional Court (Oberlandesgericht / OLG) of Stuttgart⁵ allowed the enforcement in Germany of a 12-month prison term to which a court in Switzerland had sentenced a German motorist for speeding and reckless driving. The decision is based on sections 48 et seq. of the law on international mutual legal assistance in criminal matters (IRG) which, in certain cases of mutual sanctionability, allows the enforcement of financial penalties and imprisonment without a treaty to that effect.

The following applies in general, if enforcement is not possible – for whatever reason – in the Member State of residence: there is still a risk of enforcement in the country of perpetration. Unless the sanction has become statute barred, it may be enforced there, e.g. when the police match vehicle and personal data during a spot check.

IV. Recognition of driving licence measures imposed outside the state of residence

Any driving disqualifications which a foreign authority or court imposes on the holder of a driving licence generally apply only in the territory of the country where they were imposed. There is currently no practically relevant intergovernmental legal basis for the mutual recognition and enforcement of driving licence measures. In accordance with Art. 7 (5.2) of the 1926 Convention on Motor Traffic and Art. 42 (3) of the 1968 Vienna Convention on Road Traffic, the signatory states (including the Netherlands and Germany) can prohibit persons from driving motor vehicles in their national territory if the holder of a driving licence has been disqualified from driving in their country of residence. Both the Netherlands and Germany have made use of this possibility.⁶

However, according to the wording of the Vienna Convention on Road Traffic, this option does not apply in the reverse case, i.e. the recognition of a driving ban imposed abroad in the offender's state of residence. A driving ban imposed on a Dutch tourist outside the Netherlands (e.g. in Germany or Italy) therefore has no effect in the tourist's country of residence. It should be noted, however, that the failure to carry the original driving licence (e.g. in the event of confiscation of the driving licence abroad) may result in a fine in the country of residence.⁷

On the initiative of Transport Ministers from seven EU Member States, the EU Commission is currently looking into the possibility of creating a new legal basis for the mutual recognition of driving licence measures within the EU. However, no details are currently known.

V. Penalty points systems abroad

In many countries, including Germany, France and Italy, certain traffic offences also incur penalty points which are entered on national points registers. Upon accumulating a certain number of points, motorists are usually disqualified from operating a motor vehicle in the respective country.

In the following countries, among others, foreign motorists without residence in the country concerned must also expect penalty points, although the consequences usually do not extend to their country of residence: Denmark, Germany, Italy, Luxembourg and Poland. In France, Greece, Great Britain, Ireland and Spain, a points entry is currently provided at least for holders of foreign driving licences who are resident there. However, France is planning to extend the application of the points system to holders of foreign driving licences.

VI. Collection of fines or fees/charges by private agencies

The collection of foreign fines, parking fees or toll charges by private agencies has seen a marked increase in recent years. However, not every claim justifies cross border enforcement in this manner. In this connection, it is necessary to distinguish between public law and civil law claims.

1. Public law claims

In many cases, motorists returning from a trip abroad receive requests for payments entitled "penalty charge notice", e.g. from *Euro Parking Collection (EPC)*, a London-based company, or *NiviCredit*, an Italian collection agency. These agencies try to collect unpaid toll charges, parking fees or fines from the registered vehicle owners in the Netherlands or in Germany. They work for authorities, municipalities and companies which are authorised under the respective legislation to monitor traffic and enforce traffic laws. The payment requests often threaten "legal action" for non-payment of the claim.

Where the underlying requests have a public-law character (e.g. Italian fines for unauthorised entry into zones where access restrictions apply), their enforcement by private collection agencies is not possible so far: If in individual cases the EU framework decision on mutual recognition of financial penalties applies, fines can be enforced exclusively by government authorities (e.g. the BfJ in Germany or the CJIB in the Netherlands).

In Germany, private collection agencies often threaten to initiate summary proceedings for a payment order in accordance with Sections 688 et seq. of the German Code of Civil Procedure



Creating a new legal base for the mutual recognition of driving licence measures.



5. Ref.: 1Ws 23/18, DAR 2018, 454.
6. Netherlands: Art. 107 Wegenverkeerswet; Germany: § 28 Abs. 4 Nr. 5 Fahrerlaubnisverordnung (FeV) with regard to driving licences from EU Member States and § 29 Abs.3 Nr. 5 FeV with regard to non-EU states.
7. <https://www.rijksoverheid.nl/onderwerpen/rijbewijs/vraag-en-antwoord/kan-mijn-nederlandse-rijbewijs-in-het-buitenland-woorden-ingevorderd>; see also *Nissen/Schäpe, Führerscheinmaßnahmen in Deutschland – Fahren im Ausland?*, DAR 2017, 757

(ZPO) to collect fines. However, the German civil courts have no jurisdiction over claims based on the public law of another state. In fact, German courts must dismiss such cases for lack of subject matter jurisdiction. Nevertheless, such threats do have an effect on the motorists concerned who feel compelled to pay promptly.

2. Civil law claims

In civil law claims (e.g. for toll charges in Italy or parking fees in Croatia) – as opposed to public law claims – EU Law provides several mechanisms for their cross border enforcement:

a) European order for payment procedure

Under the European order for payment procedure, the claimant may apply for a court order for payment in accordance with Art. 7 of Regulation 1896/2006 (European Order for Payment procedure).⁸⁾ In response to this, the defendant may file an opposition within 30 days from receipt of the payment order, which will result in the proceedings continuing before the competent courts of the Member State of origin of the order in accordance with the rules of ordinary civil procedure, cf. Art. 17(1), EOP Regulation. Otherwise, the court of origin will declare the payment order enforceable.

It should be noted that Art. 6(2) EOP Regulation stipulates the exclusive jurisdiction, in consumer matters, of the courts in the Member State in which the consumer is domiciled. Art. 6(2), EOP Regulation might also be primarily applicable in giving rise to a special legal venue for consumer protection in a European order for payment procedure concerning parking fees or toll charges. However, the European Court of Justice would have to clarify if this is the case.

b) EC Regulation on European Small Claims Procedure

For small claims (amount in controversy of € 5,000 or less), the simplified, written and accelerated procedure laid down in the EC Regulation on European Small Claims Procedure (Regulation (EC) 861/2007)⁹⁾ may be carried out.

c) Execution of a foreign law order in the Netherlands and/or Germany

The enforcement of a civil law order from another EU Member State may be sought under the prerequisites of the Regulation on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) (Recast Brussels Regulation)¹⁰⁾ or on the basis of the enforcement order regulation (= European enforcement order).¹¹⁾

So far, the ADAC legal advice team have become aware of only three cases in which Hungarian municipalities tried – unsuccessfully, due to various formal errors in their applications – to collect unpaid parking fines from German motorists by means of a European order for payment. However, the use of

the aforementioned enforcement instruments might increase in the future.

VII. Traffic fine proceedings in selected countries

1. Germany

In recent years, the number of traffic spot checks in Germany has increased. This has also affected foreign motorists to whom German sanctions (fines, penalty points, driving disqualification) apply as well. If you are charged with an offence on the spot, the usual procedure is to deposit a security (bail) if the matter cannot be settled by immediate payment of a cautionary fine. Additionally, an authorised recipient in Germany is usually named on whom the penalty charge notice can be served by post. In contrast to most other countries, driving disqualifications usually do not take effect until the driver concerned has handed in his/her driving licence to the authority in charge of administrative fines or until the driving disqualification has been recorded in the foreign driving licence.

Sanctions for traffic offences in Germany are imposed substantially on the basis of the German Act on Regulatory Offences (OWiG), the German Highway Code (StVO), the German Road Traffic Act (StVG) and the German Administrative Penalties Catalogue Regulation (BKatV). Minor traffic offences may be punished by the police or an administrative authority handing out a cautionary fine of between € 5 and € 35. The amount of the fine is stipulated in the uniform federal administrative penalties catalogue.

A motorist domiciled outside Germany who is stopped upon committing a minor offence may also be subject to a cautionary procedure. In this case, the motorist is asked to pay the amount due on the spot. Should motorists decline to pay immediately, they need to deposit a security (bail) in the amount of the fine and will have to pay the procedural costs. Moreover, an authorised recipient in Germany must be appointed for the service of documents. If payment of a cautionary fine is declined or if the offence is not minor, the police will lodge a complaint. In the case of automatic traffic monitoring, the authority will try to establish the owner's address (including outside Germany) and write to the owner in order to identify the driver.

The vehicle owner will only be liable to pay for the procedural costs. This means that if, in a procedure for violation of stopping or parking regulations, the driver cannot be established before the statute of limitations begins, the vehicle owner cannot be made to pay the fine. As far as offences in moving traffic are concerned, the driver is the sole party responsible. The vehicle owner has the right to refuse to disclose driver information so as not to incriminate a family member.



In Germany the driver is the sole party responsible.



8. Official Journal of the EU L 399 of 30 December 2006, p. 1, et seq.
9. Official Journal of the EU L 199 of 31 July 2007, p. 1 et seq.
10. Regulation 1215/2012, Official Journal of the EU L 351 of 20 December 2012, p. 1 et seq.; Art. 36 et seq.
11. Art. 3 et seq. of Regulation 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims.

Traffic administrative offences are generally subject to a limitation period of three months. This period is interrupted by various actions, e.g. hearing the party concerned, mailing the request for information, or issuing a penalty charge notice. Once a penalty charge notice has been issued or a lawsuit has been filed, the statute of limitations begins after six months, unless the case is submitted to the local court within this period. The limitation period for the enforcement of driving and rest time violations is two years, if committed with intent, and one year if committed by negligence.

In the case of traffic offenders from outside Germany, the limitation period may also be suspended by temporary dismissal of proceedings due to absence of the party or by any order to determine their whereabouts. An interruption will also occur if the German authority requests an investigation outside Germany.

The statute of limitation for the enforcement of unpaid fines is three years for fines up to € 1,000 and five years for higher fines. Fines for traffic offences become statute-barred after three years (if the offender is sentenced to up to 30 day fines). Enforcement of heavier financial penalties or imprisonment up to one year has a limitation

period of five years. If you are sentenced to up to five years in prison, enforcement will become statute-barred after ten years.

The uniform federal penalty catalogue defines rules for calculating the fines. Standard fines are provided to ensure equal punishment for frequently occurring traffic offences. Nevertheless, the administrative authorities have a certain scope of discretion if the practice employed in committing the offence is "unusual" (i.e. not the common case). If there are grave circumstances or previous endorsements, the standard fine may be increased. For offences committed with intent, the standard fine is to be doubled. An increased fine also applies if the basic offence additionally involves endangering other road users or damaging property.

Administrative offences committed under gross or persistent violation of a driver's duties may result in a driving disqualification of from one up to three months. Upon expiration of the disqualification period, the offender will have their driving licence returned. A driving disqualification may be ordered by an authority or by a court.

For offenders from outside Germany, the disqualification period likewise does not start



Equal punishment for frequently occurring traffic offences.



12. * = If offender is found to have committed a second speeding offence, exceeding the prescribed speed limit by more than 25kph, within one year from the first decision coming into force.

Germany

Examples of standard fines	Amount in Euro's	Points	Driving disqualification (months)
<i>Parking offences</i>	10-65		
<i>Exceeding the prescribed speed limits (cars)</i>			
by up to 10 kph:	urban extra-urban	15 10	
by 11-15kph:	urban extra-urban	25 20	
by 16-20kph:	urban extra-urban	35 30	
by 21-25kph:	urban extra-urban	80 70	1 1
by 26-30kph:	urban extra-urban	100 80	1 * 12) 1*
by 31-40kph:	urban extra-urban	160 120	2 1
by 41-50kph:	urban extra-urban	200 160	2 2
by 51-60kph:	urban extra-urban	280 240	2 2
by 61-70kph:	urban extra-urban	480 440	2 2
by over 70kph:	urban extra-urban	680 600	2 2
<i>Red light offence</i>			
without endangering other road users	90	1	
endangering other road users	200	2	1
red light lasted for more than 1 second	200	2	1
endangering other road users	320	2	1
<i>Phoning without a handsfree car kit while driving</i>	100	1	



In France over the past few years stricter penalties due to high numbers of casualties.



until the driving licence has been submitted either to the enforcement authority (fines office or public prosecutor's office) or the disqualification has been recorded in the non-German driving licence. If no driving disqualification has been imposed in Germany in the past two years, drivers can decide themselves within four months from the verdict coming into force on when to hand in their driving licence. This may keep the driving disqualification from taking effect up to four months after coming into force.

On the other hand, the revocation of the licence invalidates the right to drive motor vehicles. In the case of a criminal motoring offence, the criminal judge may order not only imprisonment or a fine, but also order the revocation of the driving licence, barring the offender for six months up to five years if found to be unfit to drive a motor vehicle. Such revocation is imposed, in particular, for reckless driving, driving under the influence and hit-and-run offences with bodily injury. If a revocation of the driving licence is the likely outcome of the court proceedings, the driver needs to temporarily hand in the licence immediately after the offence. Upon revocation of a driving licence, the offender loses the right to use the driving licence (even a foreign one) in Germany for as long as the revocation applies. A new driving licence is issued only if applied for at the competent authority and upon a positive decision regarding the restored fitness to drive; this also applies to non-German residents whose driving licence was revoked by a court in Germany.

Also, administrative authorities are authorised or even required to revoke non-German residents' right to drive a motor vehicle in Germany if unfit to drive a motor vehicle, e.g. because of drunk driving with a BAC of at least 1.6‰ or having 8 points on their licence.

Entries on the register of traffic offenders, which is kept by the German Federal Motor Transport Authority (KBA) in Flensburg, include criminal-court convictions for traffic offences as well as fines of or exceeding € 60, driving disqualifications and revocations of driving licences. 1 to 3

points are endorsed for each individual offence, depending on the severity of the offence. Upon accumulating 4 points on the register, the competent road traffic licensing department will notify the offender in writing about the endorsements. With six points endorsed, the offender will receive a written warning, and upon reaching eight points, the offender's driving licence will be revoked or will no longer be valid in Germany if the offender holds a non-German driving licence.

Points accumulated by non-German residents are also entered on the register of traffic offenders in Flensburg. Any points endorsed will be removed after between 2.5 and 15 years.

2. France

Over the past few years, the French government has ordered a number of stricter penalties, some of them drastic, for traffic offences, mainly due to high numbers of casualties. Moreover, automated monitoring (radar checks) has been massively expanded. Penalties for traffic offences are based, in particular, on the French Road Traffic Act (Code de la Route).

In France there is no detailed penalty catalogue, but traffic offences are assigned to five categories. For offences in the first four categories, discounts (in some cases considerable) are granted for prompt payment of the fine. These discounts differ according to the time of payment. For 5th category offences, the penalty is determined individually in court.

For offences detected by automated traffic monitoring, the penalty charge notice is mailed to the registered owner who is generally responsible for the payment of fines in France. In the case of company vehicles, the employer must name the employee using the vehicle (or else, pay a fine of up to € 750). Payment can be made via www.amendes.gouv.fr. The web page www.antai.gouv.fr (which is also available in other languages including Dutch) provides such options as paying fines for offences detected by automated traffic monitoring and, if necessary, filing an appeal on-line. In many cases, parking tickets can only

France

Offence category	Fine (EUR)			
	normal	reduced	increased	maximum
1. (excluding parking offences) e.g. not carrying a vehicle registration certificate	11	-	33	38
1. (parking offences)	17	-	33	38
2. e.g. not using direction indicators; obstructive parking (e.g. on bridges)	35	22	75	150
3. e.g. exceeding the prescribed speed limit of <50kph by <20kph; no low emission zone sticker (motor vehicles up to 3.5t)	68	45	180	450
4. e.g. exceeding the prescribed speed limit of >20kph by up to 50kph; phoning while driving; red light offence	135	90	375	750
5. e.g. exceeding the prescribed speed limit by more than 50kph; carrying radar detectors	-	-	-	1500

be paid by acquiring a fine payment stamp (timbre-amende) in France.

Traffic offenders who are stopped by the police and do not pay the fine immediately, may be asked to pay a deposit if they are non-French (foreign) residents. If the deposit is not paid, the vehicle may be confiscated.

Traffic infractions become time-barred after one year and criminal offences (e.g. drunk driving) after six years. As regards the enforcement of penalties, the limitation period is three years for misdemeanours and five years for serious traffic offences.

The French points system currently applies only to (French and non-French) traffic offenders living in France. However, there are plans to include all non-French traffic offenders as well. Every driving licence holder receives a points account with a 12-point balance that decreases by one to six points for each major traffic offence. These points are entered on the French Central Register of Traffic Offenders. Once the balance has reached zero, driving disqualifications are imposed.

3. Italy

Sanctions for traffic offences in Italy are based mainly on the Italian Road Traffic Act (Codice della Strada) which also specifies the current amounts of fines. The basic fees are increased every two years (most recently in early 2019). This periodic increase is based roughly on the inflation rate.

Italy

Examples of fines	Amount in EUR
<i>Parking offences</i> - minor parking offences - parking at bus stops, on pedestrian crossings, on pavements or in parking spaces for disabled persons	42-173 86-339
<i>Exceeding the prescribed speed limit</i> - by up to 10kph - by 11 to 40 kph - by 41 to 60 kph - by more than 60kph	42-173 173-695 544-2,174 + driving disqualification of at least 1 month 828-3,316 + driving disqualification of at least 1 month
<i>Red light offence</i>	173-695
<i>Unauthorised entry to a limited traffic zone (zona a traffico limitato/ZTL)</i>	84-335
<i>Phoning without a handsfree car kit while driving</i>	165-661

Traffic offences generally carry comparatively stiff fines. In Italy, drunk driving may even be punished by confiscation of the offender's vehicle. Another Italian specialty is that riders found to violate the applicable helmet regulations may have their motorcycles impounded. Of late, the automatic monitoring of speed limits and urban zones with access restrictions by cameras has been stepped up considerably. Moreover, Italian fines offices are increasingly trying to collect financial penalties via private collection agencies.

Traffic offenders must generally be charged immediately with their offences. If not served on the spot (e.g. in the case of radar or video surveillance), non-Italian drivers or owners must receive their penalty charge notice within 360 days. The limitation period for prosecution is two years whereas the enforcement of the sanctions becomes time-barred after five years (from the day the offence was committed).

Under Italian laws, both the owner and the driver are jointly liable. So, if the driver is unknown, the registered vehicle owner (or the renter, in the case of rental cars) must pay the fine. If a foreign offender pays the minimum fine within 60 days, the case is finally closed. Failure to comply with the 60-day period will result in the fine being doubled and the penalty charge notice becoming an enforceable order.

As far as exceeding the prescribed speed limit is concerned, there is no difference between urban and extra-urban roads. The fines for speeding and red light offences apply to offences committed during the day; for night-time traffic offences (22.00-07.00hrs) they are one third higher.

The police may confiscate the driving licence on the spot, even if the offence committed (e.g. exceeding the prescribed speed limit by more than 40kph) is to be sanctioned by a temporary driving disqualification. The police officer must submit the confiscated driving licence to the



In Italy traffic offences generally carry comparatively stiff fines.



Examples of fines	Amount in EUR
<i>Parking offences</i> depends on the municipality and the seriousness of the offence	7-100
<i>Exceeding the prescribed speed limit</i> On motorways - by up to 10kph - by 11 to 20kph - by 21 to 30kph by up to 10kph urban/extra-urban by up to 30kph urban/extra-urban by up to 40kph urban/extra-urban by over 40kph urban by up to 50kph extra-urban by over 50kph extra-urban	20 traffic ticket/30 Anonymverfügung 35 traffic ticket/50 Anonymverfügung 50 traffic ticket/70 Anonymverfügung from 30 from 50 from 70 150-2,180 150-2,180 150-2,180
<i>Red light offence</i>	70-180
<i>Phoning without a handsfree car kit while driving</i>	from 50

4. Austria

Fines for traffic offences vary throughout Austria. There is no uniform national penalty catalogue, except for certain motorway speeding offences. Austria's federal states can fix fines for certain offences at their own discretion. However, there are plans to establish a uniform national system. Austrian laws only define penalty ranges or maximum penalties. Fines are fixed at the discretion of the competent authorities.

Sanctions against traffic offences are primarily based on the 1960 Austrian Highway Code (StVO), the 1967 Motor Vehicles Act (KFG) and the state laws on parking fees.

Most offences violating StVO regulations carry fines of up to € 726. The maximum fine may increase to as much as € 2,180 if the offence "causes particularly dangerous situations" or is committed "without due care and attention for other road users". Violations of provisions of the Motor Vehicles Act (KFG) carry fines of up to € 5,000. The KFG comprises licensing provisions, e.g. regarding equipment and items that must be carried on board, as well as the registered vehicle owner's duty to name the driver if an offence was committed. Speeding offences violating the Federal Emission Protection Law (IG-L) carry fines of up to € 2,180 (in speed limit zones marked with IG-L signs).

A special case most foreign parking offenders are unfamiliar with is the (civil) lawsuit for trespassing: In Austria, private property owners can file a lawsuit against parking offenders (instead of having them towed). Before initiating legal proceedings for trespassing, Austrian attorneys will ask the "trespassers" to sign an undertaking to cease and desist and pay the attorneys' fees. Failing to do so, the trespasser would risk having to pay all procedural and legal costs.

Minor offences, e.g. parking or lesser speeding offences, may be fined on the spot in the form of

a traffic ticket (Organstrafverfügung). Traffic tickets can be issued for fines not exceeding € 90. Also, the officers can press charges if the driver stopped by the police wants to argue about the offence.

In the context of automated traffic enforcement, "John Doe" citations (Anonymverfügung) are issued. The fines are defined in a specific penalty catalogue or fee system and do not exceed € 365. Automated enforcement tickets are informally served on the registered vehicle owners without previously identifying the driver. Ultimately, the authority does not care if the owner or the driver pays the fine. Thus, the actual offender remains anonymous. However, if the fine is not paid within four weeks, the regular fine proceedings will be initiated.

A penal order is issued either in lieu of or for not acting on an Anonymverfügung. Penal orders can be appealed within two weeks after receipt. The competent administrative authority usually decides on the appeal by a punitive decision. Traffic offences are subject to a one-year limitation period (from the date the decision comes into force). The sanctions can be enforced for a maximum period of three years.

In Austria, the general liability of the registered vehicle owner is limited. However, the owner is required to name the driver even if the latter is a close relative. Refusal to disclose the name is subject to a fine, usually in the amount fixed for the underlying offence.

5. Switzerland

Traffic offenders face rather steep fines in Switzerland. Speeding offences, in particular, are very costly. The Via Sicura road safety programme aims to reduce the number of road fatalities and injuries. One of the programme's key measures was to introduce speeding as an element of a criminal offence. This includes, without limitation, exceeding the prescribed speed limit considerably (e.g. by at least 80kph on motorways) or hazardous overtaking. Viola-

“ Austria's federal states can fix fines for certain offences at their own discretion.

Switzerland

Examples of fines	Fine in CHF (EUR)
Parking offences depending on the severity of the offence	40-200 (35-180)
Red light offence	250 (220)
Phoning without a handsfree car kit while driving	100 (90)

Switzerland

Exceeding the prescribed speed limit – uniform list of fines

Offence	Fine	
	CHF	EUR
Prescribed urban speed limit exceeded by	1-5kph	35
	6-10kph	105
	11-15kph	220
Prescribed extra-urban speed limit exceeded by	1-5kph	35
	6-10kph	90
	11-15kph	140
	16-20kph	210
Prescribed motorway speed limit exceeded by	1-5kph	18
	6-10kph	55
	11-15kph	105
	16-20kph	160
	21-25kph	230

Switzerland

Recommended penalties for more excessive speeding (may differ from canton to canton)

Urban	30kph zone	Extra-urban	Motorway	Sanction	
				CHF	EUR
16-20	16-17	21-25	26-30	400	360
21-24	18-19	26-29	31-34	600	535
Fine/day fines (DF¹⁴)					
25-29	-	30-34	35-39	20 DF	
-	20-24	35-39	40-44	30 DF	
30-34	25-29	-	45-49	50 DF	
-	-	40-44	50-54	60 DF	
35-39	-	-	55-59	70 DF	
-	30-34	45-49	60-64	90 DF	
40-49	35-39	50-59	65-79	120/+ DF	
Imprisonment					
from 50	from 40	from 60	from 80	at least 1 year	

tions of this kind may be punished by imprisonment (at least one year in prison) or high fines and revocation of the driving licence. In some cases, offenders may even have their car confiscated and sold.

Minor traffic offences, such as parking offences and slightly excessive speed, may be sanctioned by the police on the spot imposing fines of up to CHF 300 (approx. € 270) according to the so-called Ordnungsbußenliste (administrative fines catalogue). Administrative fines are payable within 30 days. For more serious offences, the police will

press charges and fine proceedings will be initiated. In the case of more serious traffic offences (e.g. higher speeding offences), the penalty is not calculated on the basis of fixed fines but on the basis of day fines. A day fine is a unit of fine payment that is based on the offender's daily personal income (at least CHF 30/€ 27 per day). The aim is to provide equitable punishment for people with different incomes.

To all offences contained in the administrative fines catalogue the registered vehicle owners' general liability applies. Otherwise, the driver is



In Switzerland the aim is to provide equitable punishment for people with different incomes.



13. Recherches informatisées de police.
14. at least CHF 30/€27 per day.



The highest fines for speeding still apply in the Scandinavian countries.



generally considered to be responsible. However, registered vehicle owners who fail to cooperate in identifying the driver may be held liable for offences committed using their vehicle – in particular, if the registered vehicle owner cannot be credibly ruled out as the driver.

If a foreign traffic offender refuses to pay a fine on the spot, or if the fine exceeds CHF 300, the offender must deposit the corresponding amount. The deposit is meant to cover the expected penalty and procedural costs. In the case of serious traffic offences (e.g. overly excessive speeding), the offender's vehicle may be confiscated and sold, if this will prevent the offender from committing further offences.

As experience has shown, offenders from other countries refusing to pay a fine run a great risk of enforcement on the spot the next time they enter Switzerland. The central Swiss police register RIPOLE also keeps track of unpaid fines. Traffic infractions remain prosecutable for three years, while criminal traffic offences (e.g. offences committed under the influence of alcohol) can be prosecuted within seven years. The limitation period for enforcement is three years for traffic infractions, and five years for criminal offences, from the date they come into force. Procedural costs can be enforced for a maximum of ten years.

VIII. Comparison of fines in Europe

As a rule, fines for traffic offences apply to both domestic and foreign motorists. On the basis of the information above on the selected countries, it is obvious that not only the respective national fine proceedings differ quite considerably from country to country but also the amount of the fines for individual offences. An impressive overview can be found, for example, in the annual summary "Das kosten Verkehrssünden im Ausland" (German only) published by ADAC e.V. for over 25 years – one of the German automobile club's most popular press products which describes fines for traffic offences outside Germany.¹⁵ Here is a summary of the fines for the most frequent offences:

1. Speeding

The highest fines for speeding still apply in the Scandinavian countries Norway, Sweden and Finland, and also in the Netherlands, Switzerland and Italy. Exceeding the prescribed speed limit by 20kph there will cost you at least approx. € 480¹⁶ (Norway), € 230 (Sweden), € 200 (Finland), € 175 (Italy), € 170 (the Netherlands) and € 160 (Switzerland), respectively. In comparison, the fines for this offence in Germany are rather low (up to € 35).

2. Parking/stopping offences

Parking offences – if sanctioned by the police – carry the stiffest fines in the Netherlands (€ 95

or higher), Spain (up to € 200), Cyprus (€ 85), Denmark (€ 70 or higher), as well as in Belgium, Montenegro and the Czech Republic (each € 60 or higher). In Germany, a fine of € 10 to € 70 applies.

3. Phoning while driving

Phoning without a handsfree car kit while driving is also expensive in several countries: Whereas relevant offences carry a fine of only € 15 in Latvia, they cost you € 230 or more in the United Kingdom, € 200 in Denmark, € 165 in Italy, and as much as € 240 in the Netherlands.

4. Driving under the influence (DUI)

DUI offences generally have dire consequences: In Italy, drivers caught with a blood alcohol concentration (BAC) of 1.5‰ or higher may have their car confiscated – provided the driver and the owner are the same person. Similar regulations apply in Denmark for a BAC of 2.0‰ or higher. Drink driving is subject to imprisonment e.g. in Sweden (one month for a BAC of 1.0‰) or in Spain (three months for a BAC of 1.2‰ or higher). After Malta lowered the drink-drive limit from 0.8 to 0.5‰ BAC in late 2018, the 0.8‰ limit now only applies to car drivers in the United Kingdom (England, Wales and Northern Ireland). Only Scotland has a 0.5 ‰ limit.

5. Discounts on fines

In some countries, considerable discounts apply for immediate or prompt payment of fines. For instance, in Spain, if you pay your fine within 20 days, the fine will be reduced by 50%, which may amount to at least € 50 in the case of a speeding fine. In Italy, the fine doubles if it is not paid within 60 days from receipt of the penalty charge notice. On the other hand, payment of the fine within five days from receipt of the notice qualifies for a 30% discount. France also grants discounts for payment within 15 days.

6. Responsibility for traffic offences

Just as the fines vary from country to country, so do the administrative procedures.¹⁷ The definition of the person responsible for the traffic offence should be highlighted as an example in this respect. When considering the legal situation in important EU travel countries, the following three responsibility concepts can be identified (for traffic offences detected by an automatic camera without immediately stopping the offender)¹⁸:

- Countries with driver responsibility (at least in flowing traffic), including: Denmark, Finland, Germany, Luxembourg, Poland, Slovakia, Sweden and the Czech Republic.
- Countries with indirect responsibility of the vehicle owner (e.g. by sanction in case of refusal to provide the name of the driver), e.g. Austria, Great Britain and Spain.
- Countries with direct responsibility of the

15. For more information, go to: <https://www.adac.de/der-adac/rechtsberatung/bussgeld-punkte/bussgeldrechner-ausland/> (German only)

16. Amounts rounded.

17. Further information on fine proceedings in 22 European countries can be found in *Neidhart/Nissen, Bußgeldkataloge in Europa*, 2. Auflage, Deutscher Anwaltverlag Bonn 2018 (in German), www.anwaltverlag.de.

18. *Nissen, DAR* 2010, p. 745 et seq.

vehicle owner (partly with possibility of exculpation or joint liability with the driver): France, Italy, the Netherlands and Hungary.

IX. Conclusion

As much as European legislation has already been unified in many respects, there is little evidence of this in the context of sanctions for road traffic offences. Any form of harmonization in the long term will depend on whether or not this is desired by the Member States and feasible under EU law. At present, the EU legislator is concentrating on harmonizing the modalities of cross-border enforcement of traffic offences and fines within the scope of its competences. Here, too, it will certainly still take some time and

require practical and legal adjustments before this will function smoothly between all Member States.

On the one hand, it is all the more important to communicate national rules, procedures and sanctions in a transparent and comprehensible manner¹⁹⁾ because of the national differences in sanctions systems described above. This is a precondition for raising awareness in traffic offenders.

On the other hand, however, it is above all the motorists themselves who, by complying with national traffic rules, can help to avoid misunderstandings and expensive sanctions – entirely in accordance with the maxim mentioned at the outset:

“When in Rome, do as the Romans do!”

19. See e.g. EC/DG MOVE “Going abroad” website: http://ec.europa.eu/transport/road_safety/going_abroad/index_nl.htm.