



*Association Européenne des Concessionnaires
d'Autoroutes et d'Ouvrages à Péage*

POSITION ON TOLLING ENFORCEMENT

JULY 2019

Tolling is a system broadly used in Europe to build, finance and maintain roads and provide mobility to our citizens with high standards of safety. This system is a crucial tool for members States to complete, enlarge and update their road network since it does not impact on public budgets (and thus makes available public funds to support and finance other public services), does not affect public deficits and transfers risks to the concessionaires.

Tolling is a fair tool for financing road infrastructures that enables the user-pay principle in respect with the Directive 1999/62/EC.

It relies on the certainty of toll revenues and needs, in consideration of the growing share of international traffic, a consistent pan-European enforcement legal framework to guarantee the correct collection of tolls. This system must be non-discriminatory and applicable to all toll evaders, regardless their nationality.

Currently, such a reliable enforcement system does not exist in the EU. Each country has its own legal framework and procedure to enforce national toll evaders, some of which are more efficient than others: some allow the recovery of the non-paid tolls (as is the case of France, Austria...) while others only guarantee that the national evader will receive a fine (as is the case of Spain); some are considering toll fraud as a traffic offense while others consider it as a fiscal fraud... Thus, depending on his/her nationality, European drivers will be subject to different rules and procedures in their respective countries.

But, on top of that, the different procedures implemented in each country for national evaders are in practical terms useless for foreign violators. When the non-payment of the toll is made by a foreign evader, there is no reliable procedure to enforce him/her, except if the vehicle is stopped and immobilized in the moment when he/she commits the offense. Thus, toll operators are still in general compelled to use barriers in their toll motorways, and those who operate without them, in free-flow configuration, are still facing relevant revenue losses due to foreign toll violations.

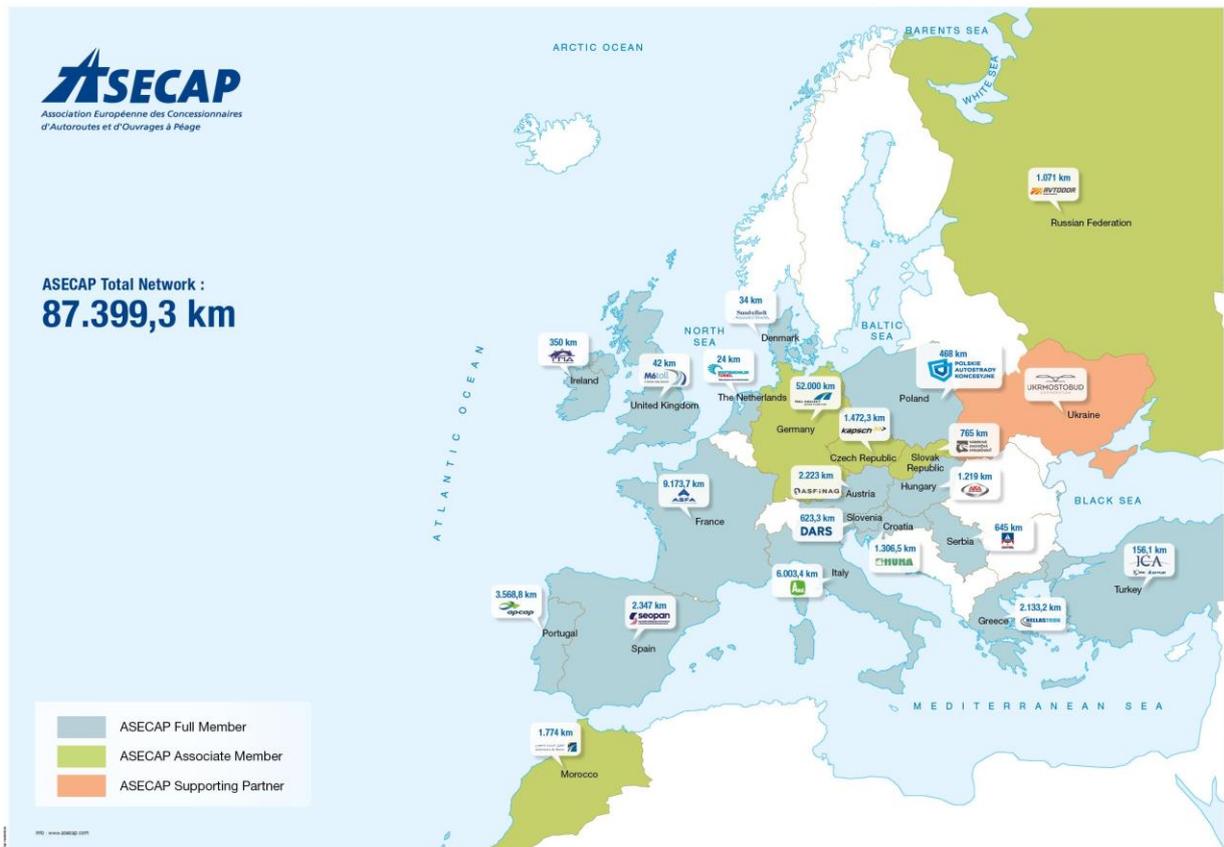
The new Directive (UE) 2019/520 “on interoperability of electronic road systems and facilitating cross-border exchange of information on the failure to pay road fees in the Union” is a good step forward to reach a pan-European enforcement framework for foreign evaders. However, its scope is only limited to the exchange of information, the identification of the foreign evader and a common template for the information letter to be sent to him/her.

Therefore, and considering the conclusions¹ of the evaluation of Directive (UE) 2015/413 of the European Parliament and of the Council of 11 March 2015 facilitating cross-border exchange of information on road-safety-related traffic offences” which defines a similar information exchange system for other traffic violations, very likely this procedure will not be fully effective.

¹ The evaluation of the Directive's 2015/413 done in 2016 showed that there is still room to improve its effectiveness: approximately half of the detected road traffic offences committed by non-residents were not investigated and approximately half of the financial penalties for those road traffic offences by non-residents that had been investigated were not successfully enforced. Practically all offences where offenders refused to pay financial penalties were not enforced and all successfully enforced penalties were due to voluntary payments.



From ASECAP we remind the need of a robust European enforcement framework that guarantees the control of toll fraud and the same treatment to all drivers, whatever their nationality is. In addition to the identification of the evader, the enforcement procedure shall be completed with a mandatory execution of the administrative or fiscal fine, as it is the case for fines issued by national authorities. The European legal framework should be adapted to allow authorities to seize the amount of the correspondent fine and non-paid toll from the evader's bank account regardless their nationality. Since a nonnegligible share of the users come even from outside the EU, ASECAP also highlights that once an effective enforcement system will be in place it would be absolutely worthwhile to extend it to those countries by means of framework agreements at EU level, preventing the need for the EU member States to seek for a large number of bi-lateral agreements.



About ASECAP:

ASECAP is the European Association of Operators of Toll Road Infrastructures, whose members' networks today span 87.399,3 km of motorways, bridges and tunnels across 23 countries.

ASECAP's purpose is to defend and develop the system of motorways and road infrastructures in Europe applying tolls as a means to ensure the financing of their construction, maintenance and operation.

ASECAP members are operating the safest category of roads in Europe. A motorway is an infrastructure specially designed and built according to the highest quality and technological standards, in order to guarantee to all drivers 24/7 the best safety conditions, high levels of service and driving comfort in all weather conditions.



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