



**Research and Documentation
Directorate**

RESEARCH NOTE

Public access to personal data relating to road traffic offences

[...]

Subject : Overview of national rules provided for in the legal orders of certain Member States concerning the right of access by natural or legal persons to personal data relating to road traffic offences, such as penalty points.

[...]

May 2020
[...]

SUMMARY

I. INTRODUCTION

1. The purpose of this research note is to describe the legal rules in thirteen Member States¹ concerning the right of public access to personal data relating to road traffic offences, in particular penalty points imposed on drivers of vehicles.
2. It aims, first, to clarify the scope of the right of public access to those data (II.). Secondly, it focuses on the delimitation of the beneficiaries of that right (III.), on the requirements and arrangements for exercising that right (IV.) and on the possibility of disclosing those data to third parties for re-use and the related case-law (V.).
3. As a preliminary point, it should be stated that the purpose of this note is to analyse the rules on the right of public access to personal data relating to administrative road traffic offences, to the exclusion of data relating to criminal road traffic offences. In that regard, it should be noted that it is not possible to draw such a distinction in relation to **Estonia, Ireland, Poland and Sweden**, since in those Member States all road traffic offences fall within the scope of criminal law.²
4. For the purposes of this note, it is possible from the outset to classify the national legal orders examined into two groups: in the first group, comprising nine Member States,³ there is a penalty point system, while in the second group, comprising four Member States,⁴ there is no such system. With respect to the second group, the analysis will focus on access to personal data

¹ This note covers **Austrian, Croatian, Estonian, Finnish, French, Hungarian, Irish, Italian, Polish, Romanian, Slovenian, Spanish and Swedish** law.

² It should be noted, in particular, that in Estonia, in the course of the 2004 reform of criminal law, all administrative offences, including road traffic offences, were brought within the scope of criminal law.

³ Croatia, France, Hungary, Ireland, Italy, Poland, Romania, Slovenia and Spain.

⁴ Austria, Estonia, Finland and Sweden.

relating to road traffic offences, other than penalty points.

II. SCOPE OF THE RIGHT OF PUBLIC ACCESS TO PERSONAL DATA RELATING TO ROAD TRAFFIC OFFENCES

A. RULES ON THE RIGHT OF ACCESS TO DATA RELATING TO PENALTY POINTS

5. Of the legal orders covered by this note, only two, namely Polish and Slovenian law, provide for a general right of public access to data relating to penalty points.
6. In **Poland**, first of all, there is a right of public access to data relating to penalty points which are recorded in the central register of drivers.⁵ Those points are also recorded in the penalty points register⁶ but there is no right of public access to the data contained therein.
7. Next, in **Slovenia** the Law on minor offences provides for a right of public access to data relating to penalty points.⁷
8. However, two other Member States, namely **Ireland** and **Spain**, leave open, in their legal systems, the possibility of accessing those data, albeit in very limited circumstances. Accordingly, the first of those legal systems provides for a right of access to data relating to penalty points which is limited to a single category of beneficiaries, namely insurers. As for the second, it allows only the possibility of ‘residual’ access to those data, in very specific circumstances.

⁵ The register in question was established pursuant to Article 100a of the Ustawa z dnia 20 czerwca 1997 r. Prawo o ruchu drogowym (Law of 20 June 1997 on road traffic, Dz. U. of 2020, position 110). It contains information on the road traffic offences and minor offences committed by a driver and on penalty points.

⁶ This register was established on the basis of the Rozporządzenie z dnia 25 kwietnia 2012 r. w sprawie postępowania z kierowcami naruszającymi przepisy ruchu drogowego (Regulation of 25 April 2012 on the treatment of drivers who contravene traffic regulations, Dz. U. of 2012, position 488).

⁷ Zakon o prekrških – uradno prečiščeno besedilo (Law on minor offences – codified version) (Uradni list RS, No 29/11), Article 204a.

9. In the specific case of **Spain**, it should be pointed out that, although the law does not provide for a right of public access to data relating to penalty points contained in the register of drivers and offenders, there may actually be a possibility of ‘residual’ public access to those data, in particular if it was not possible for a person who committed a road traffic offence to be informed of that offence and the applicable penalty.⁸ In that situation, that person is informed via the publication of an official notice on the single bulletin board (*Tablón edictal unico*, ‘the TEU’).⁹ The possible publication of those data on that bulletin board opens up the possibility of public access to those data.¹⁰
10. The other five Member States which provide for a penalty point system, namely **Croatia, France, Hungary, Italy**¹¹ and **Romania**,¹² exclude any right of public access to data relating to penalty points.

⁸ That information will be sent to his or her personal address or road-user email address (Dirección Electrónica Vial).

⁹ The TEU is a bulletin board on which data relating to fines and other personal data are recorded, namely, an offender’s identification card numbers, the town or city in which the incident took place, the amount of the fine, the penalty points, the reason for the fine, etc.

¹⁰ It is possible for penalty points not to be published on the TEU and therefore for the public not to have access to those data.

¹¹ The processing of information such as changes in penalty points constitutes the processing of personal data under Article 4(1)(b) and Article 11(1)(a) and (b) of the Codice per la protezione dei dati personali (Personal Data Protection Code, decreto legislativo 30 giugno 2003, n. 196, S.O n. 123 alla G.U. 29 luglio 2003, n. 174). It follows from the application of the rules on the protection of personal data to penalty points that there is no right of public access to those points (see also the decision of the garante per la protezione dei dati personali (Personal Data Protection Supervisor) of 24 January 2012 No 25).

¹² The absence of such a right of access may be explained by the fact that data relating to penalty points, and more generally to administrative penalties for road traffic offences, are personal data (see, to that effect, Article 1(2) of Ordinul nr. 141/2014 al Ministerului Afacerilor Interne, privind evidența permiselor de conducere reținute și a sancțiunilor aplicate conducătorilor de autovehicule sau tramvaie (Order of the Ministry of Internal Affairs No 141/2014 of 15 September 2014 on the database relating to withdrawn driving licences and to penalties for drivers of vehicles or trams) (M. Of., No 683/18 September 2014)). Those data constitute an exception to the free access of citizens to information of public interest, pursuant to Article 12(1)(d) of the legea nr. 544/2001 privind liberul acces la informațiile de interes public (Law No 544 on free access to information of public interest) of 12 October 2001 (M. Of., No 663/22 October 2001).

B. RULES ON THE RIGHT OF ACCESS TO DATA RELATING TO ROAD TRAFFIC OFFENCES

11. The legal orders of four Member States have no penalty point system. **Estonia** and **Sweden** grant a right of public access to personal data relating to road traffic offences. **Finland**, on the other hand, grants no such right. The same applies to **Austria**, which has rules on the right of access to such data which form part of a more complex legal framework.
12. Accordingly, first of all, in **Estonia** the Law on criminal records provides for a right of public access to personal data relating to road traffic offences contained in criminal records.¹³
13. Next, in **Sweden** a right of public access to personal data relating to road traffic offences is provided for by law¹⁴ and entails not only the right to access such data but also the right to disseminate them in writing. Indeed, those data are, as a rule, publicly available information. However,

¹³ Igaühel on õigus saada registrist andmeid enda ja juriidilise isiku kohta. Teise inimese kohta andmete küsimisel tuleb päringus kinnitada andmete küsimise õiguslikku alust või eesmärki (Law on criminal records), Article 15(1). According to Article 12 of that law, the following data are to be entered in the register:

- (a) personal data of a natural person, that is the full name; personal identification code (or date and place of birth and type and number of identity document for foreign citizens without a personal identification code) or date of birth; sex; nationality; home address; previous surname and personal identification code of the person; surname of the person's parent, if the latter has been sent to the register by a foreign State.
- (b) data relating to the sentence imposed on a natural person, including the name of the court which delivered the decision; title of the non-judicial body which made the decision; date of the decision and case number; date of the offence; provision of the Criminal Code or other law applied; type of penalty imposed; date of entry into force of the decision; time spent in pre-trial detention; legal basis and date of substitution, addition or withdrawal of penalties; date of enforcement of the pecuniary penalty or fine; date of community service; date imprisonment or detention ended; legal basis for probationary period and date it ended; legal basis and date of suspended sentence and part of sentence not served; start and end date of mandatory psychiatric treatment; start and end date of treatment for drug addicts or complex treatment for sex offenders; date of entry into force of Presidential pardon.

¹⁴ Tryckfrihetsförordningen (1949:105) (Law on the freedom of the press) and Yttrandefrihetsgrundlagen (1991:1469) (Basic law on the freedom of expression).

the means of access to those data is not the criminal record, which is confidential,¹⁵ but the court decisions relating to persons convicted of a road traffic offence, which, as a rule, are public.

14. Moreover, in **Finland** the Law on traffic services,¹⁶ which provides for the establishment of a traffic register, makes no provision for public access to personal data relating to road traffic offences.¹⁷
15. Finally, as regards **Austria**, it should be noted that the Law on driving licences¹⁸ does not provide for a right of public access to personal data relating to road traffic offences contained in the driving licence register. In that legal order, notwithstanding the existence of a constitutional principle of public access to official documents,¹⁹ there is no real right of access to those data, since such a right would not be compatible with certain other fundamental rights.²⁰

III. BENEFICIARIES OF THE RIGHT OF ACCESS TO PERSONAL DATA RELATING TO ROAD TRAFFIC OFFENCES

16. It should be noted that all the Member States covered by this note grant to the holder of the driving licence a right of access to personal data relating to penalty points.

¹⁵ Förordning om ändring i förordningen (1999:1134) om belastningsregister (Regulation amending the regulation (1999:1134) on criminal records), and offentlighets-och sekretesslagen (2009:400) (Law (2009:400) on transparency and confidentiality), Chapter 35, Article 3.

¹⁶ Laki tieliikenteenpalveluista (320/2017) (Law No 320/2017 on traffic services).

¹⁷ It should be noted that provision is made for public access to certain personal data, though that access concerns data related not to road traffic offences but to the right to drive and the scope and validity of driving licences.

¹⁸ Führerscheingesetz, BGBl. I 1997, p. 120, as amended by BGBl. I 2019, p. 76 (Law on driving licences).

¹⁹ That principle is enshrined in Paragraph 20(4) of the Bundes-Verfassungsgesetz (Federal Constitutional Law) and in the Auskunftspflichtgesetz (Federal law on the duty to provide information). According to that principle, all bodies entrusted with tasks of the federal, provincial and municipal administration, as well as bodies of other legal persons governed by public law, are required to provide information on matters falling within their sphere of activity, in so far as this is not precluded by a statutory obligation of professional discretion or confidentiality.

²⁰ For more details on that subject, see paragraph 42 of this note.

A. BENEFICIARIES OF THE RIGHT OF ACCESS TO DATA RELATING TO PENALTY POINTS

17. Some Member States, namely **Poland**, **Slovenia** and **Ireland**, grant a right of access to data relating to penalty points to persons other than the licence holder. It is also worth noting that in **Spain** there is a possibility of access in very specific circumstances.
18. As regards **Poland** and **Slovenia**, first of all, any natural or legal person may gain access to data relating to penalty points contained, in **Poland**, in the central register of drivers and, in **Slovenia**, in the penalty points register. In **Poland** such a right is also granted to associations without legal personality.
19. Next, in **Ireland** only insurers have access to data relating to penalty points, for the purpose of renewing the insurance policies of data subjects.²¹ Insurers can use those data to calculate the insurance premiums for those persons.
20. Finally, it should be noted that in **Spain** any natural or legal person has the possibility of ‘residual’ access to data contained in the TEU, including data relating to penalty points. However, in order to prevent third parties from gaining access to those data, drivers of vehicles can register for inclusion on an ‘Excluded Persons List’ (*Lista de Excluidos*). Inclusion on that list ensures the confidentiality of those data, as in this situation access is possible only by means of a digital certificate or a personal identification number.

B. BENEFICIARIES OF THE RIGHT OF ACCESS TO DATA RELATING TO ROAD TRAFFIC OFFENCES

21. Of the Member States having no penalty point system, **Finland** is the only one which grants a right of access to personal data relating to road traffic offences solely to the holder of the driving licence.

²¹ Road Traffic Act 2014, section 5(1).

22. In **Estonia**, any natural or legal person has a right of access to personal data relating to road traffic offences.
23. In **Sweden**, in accordance with the principle of transparency, any natural or legal person has a right of access to personal data relating to road traffic offences, except where confidentiality is provided for by law. Such access may be refused only if the court decision to which access is requested contains data protected by law.²²

IV. REQUIREMENTS AND ARRANGEMENTS FOR ACCESS TO PERSONAL DATA RELATING TO ROAD TRAFFIC OFFENCES

A. REQUIREMENTS AND ARRANGEMENTS FOR ACCESS TO DATA RELATING TO PENALTY POINTS

24. A distinction must be drawn between the requirements and arrangements for access to penalty points applicable to holders of a driving licence (1.) and those applicable to third parties (2.).
1. REQUIREMENTS AND ARRANGEMENTS FOR ACCESS FOR THE HOLDER OF A DRIVING LICENCE
25. In **Croatia** the holder of a driving licence can check his or her penalty points on the driving licence status website, using his or her licence number.²³
26. In **Spain** the website of the Dirección General de Tráfico (Directorate-General for Traffic) states that penalty points can be checked either in person with the competent authority or online using a digital certificate or an account with a password (*sistema clave*), or by consulting the TEU.

²² Offentlighets- och sekretesslagen (2009:400) (Law (2009:400) on transparency and confidentiality).

²³ <https://mup.gov.hr/status-vozacke-dozvole/283633>.

27. In **France** the holder of a driving licence can check his or her outstanding penalty points on the Ministry of the Interior's secure 'Télépoints' website, using his or her Télépoints access codes, or via the 'France Connect' service, which does not require a code. In addition, the prefect of the department in which the holder of a driving licence resides will, on request, provide a full statement of the entries relating to that person.²⁴ To that end, the licence holder's request must include a photocopy of his or her driving licence, a photocopy of a valid identity document and an envelope stamped for registered post with acknowledgment of receipt.
28. In **Hungary** the holder of a driving licence may check his or her penalty points recorded in the driving licence register, by submitting an application to the authority responsible²⁵ for that register, either in writing or electronically.²⁶
29. In **Ireland** the holder of a driving licence holder has the following two options for checking his or her penalty points:
- (a) through the National Driver License Service, by requesting a copy of his or her driver statement either by email or by telephone.²⁷ The requested data will be sent to his or her email address or by post.

²⁴ Code de la route (Highway Code), Article R 225-6. The Fichier National des Permis de Conduire (National Driving Licence Register, 'FNPC') or Système National des Permis de Conduire (National Driving Licence System, 'SNPC') contain all the information relating to driving licences, whether relating to road traffic offences, withdrawals of licences (suspension, revocation or retention) or penalty points.

²⁵ Belügyminisztérium Nyilvántartások Vezetéséért Felelős Helyettes Államtitkárság Közlekedési Igazgatási és Nyilvántartási Főosztály Közlekedési Igazgatási Osztály.

²⁶ Pursuant to Article 22(1) of the 1999. évi LXXXI. törvény a közúti közlekedési nyilvántartásról (Law No LXXXIV of 2000 on the highways register), that application must include, inter alia, the surname, first name, date and place of birth of the holder, the name of the mother and the signature (in PDF or JPEG format for electronic applications). Information for the public on how to submit such an application is available at: https://www.nyilvantarto.hu/hu/adatszolgaltatas_eloeletipontok.

²⁷ To find out how many points he or she has, a holder must provide his or her driving licence number (or national identification number in the absence of the driving licence number), full name and date of birth.

- (b) through the police (*an Garda Síochána*), by completing a Subject Access Request Form²⁸ relating to his or her penalty points and by providing a copy of his or her identity card and a utility bill as proof of address. Those documents must be sent to the police either by post or by email. The requested information will be sent to the holder by post.
30. In **Italy** the holder of a driving licence can check his or her outstanding penalty points by telephone, upon providing his or her date of birth and driving licence number, or via the Driver's Portal (*il portale dell'automobilista*),²⁹ by entering a user name or a registration number and a password, once he or she has registered.³⁰
31. In **Poland** the holder of a driving licence can check his or her penalty points recorded in the penalty points register, either directly at the relevant police station or via the website of the Ministry of Digitalisation.³¹ In addition, the licence holder can check his or her points on the central register of drivers, via a request in paper or electronic form.
32. In **Romania** the holder of a driving licence can check his or her penalty points by applying to obtain either the full record of his or her administrative driving

²⁸ Available at: <https://www.garda.ie/en/about-us/online-services/data-protection-foi-police-certificates/an-garda-siochana-f20-october-2019-.pdf>.

²⁹ The 'Driver's Portal' (available at: <https://www.ilportaledellautomobilista.it/web/portale-automobilista/home>) is the website of the Department of Transport, Navigation, General Affairs and Human Resources through which citizens, professionals and undertakings can view information and access available online services relating to vehicles, licences and forms concerning traffic. It should be noted that every change in penalty points is disclosed to the anagrafe nazionale degli abilitati alla guida (National Office for Qualified Drivers) by the competent territorial authority within 30 days and, subsequently, to the person whose penalty points have been changed by that national office. See Articles 126a and 226 of the nuovo codice della strada (New Highway Code).

³⁰ To register, a citizen must state his or her surname, first name, email address, national identity code, date of birth, sex, country, province and municipality of birth, together with the number and expiry date of his or her driving licence.

³¹ That website can be accessed by following this link: <https://www.gov.pl/web/gov/sprawdz-swoje-punkty-karne>.

Penalties³² or just his or her penalty points.³³ In both cases, the application is made on a form to be completed by the holder.³⁴ In the case of access to penalty points via the record of penalties for road traffic offences, that information will be disclosed to the holder by the traffic police service.³⁵ As regards direct access to penalty points, the information requested will be disclosed to the holder in person at the headquarters of the traffic police service.³⁶

33. Finally, in **Slovenia** the licence holder's access to penalty points is based on an application submitted to the competent authority in paper or electronic form.³⁷

³² Ordinul nr. 141/2014 al Ministerului Afacerilor Interne, privind evidența permiselor de conducere reținute și a sancțiunilor aplicate conducătorilor de autovehicule sau tramvaie (Order of the Ministry of Internal Affairs No 141/2014 on the database relating to withdrawn driving licenses and to penalties for drivers of vehicles or trams) of 15 September 2014 (M. Of., No 683/18 September 2014), Article 7. The administrative penalties which can be applied as well as the measures which can be taken in the event of an infringement of the road traffic rules are provided for by the Ordonanța de urgență nr. 195/2002 privind circulația pe drumurile publice (Government Emergency Order No 195/2002 on road traffic) of 12 December 2002 (M. Of., No 958/27 December 2002), Articles 95 to 97.

³³ Regulamentul de aplicare a Ordonanței de urgență a Guvernului nr. 195/2002 privind circulația pe drumurile publice (Regulation implementing Government Emergency Order No 195/2002 on road traffic) of 4 October 2006 (M. Of., No 876/25 October 2006), Article 208.

³⁴ The following information must be included on both forms: full name, home address, identity card and driving licence numbers, reference to the period covered by the application, reason for the application, date and signature. The forms to be completed for that purpose can be accessed at the following links: https://bpr.politiaromana.ro/files/pages_files/cerere_Anexa_2.pdf and https://bpr.politiaromana.ro/files/pages_files/cerere_Anexa_5.pdf.

³⁵ Within 15 days of submitting the application.

³⁶ Traffic police service of the department in which the holder lives.

³⁷ That application must contain the following data: full name; company name or name of the legal person; national identification number or date of birth of a natural person who is not registered in the Central Population Register or identification number for a legal person; permanent or temporary address for a natural person (street name and number, postcode, town or city) or registered office for a legal person; nationality; number and date of the decision concerning the offence, type of penalty and its duration; purpose and legal basis for access to the personal data in question if the application concerns third parties; date of the application; name of the applicant; signature for natural persons or representative's signature for a legal person.

2. REQUIREMENTS AND ARRANGEMENTS FOR ACCESS FOR THIRD PARTIES

34. It should be noted that **Poland** and **Slovenia** grant third parties a general right of access to data relating to penalty points.
35. In **Poland** third parties may view all data relating to drivers and their driving licences,³⁸ including any penalty points recorded in the central register of drivers, provided that they can prove a legitimate interest. In order to access those data, third parties must submit an application in paper or electronic form.³⁹ The competent minister must determine the type and scope of the data which may be made available to those third parties, keeping in mind the need to ensure the security of the data processed and the protection of those data against unauthorised disclosure and access.
36. In **Slovenia** any natural or legal person can obtain access to penalty points on the basis of a request submitted to the competent authority in paper or electronic form.⁴⁰ It should be noted that such access is subject to proof of a legitimate interest provided for by legislation.⁴¹
37. The solution applied in **Poland** and **Slovenia** contrasts with that adopted in **Ireland** and **Spain**, where access to such data is possible but under much stricter conditions.
38. In **Ireland**, first of all, insurers can check penalty points either directly or indirectly. Accordingly, in order to obtain direct access to the National Vehicle and Driver File, they must submit an application to

³⁸ In particular, information on road traffic offences and minor offences committed by individuals.

³⁹ That application must include, in particular, data making it possible to identify the person to whom the application relates, in particular full name, address, national identification number or, where appropriate, date of birth, information sought, legal basis, interest in obtaining the information and the purpose for which the information will be used.

⁴⁰ See footnote 37.

⁴¹ Zakon o prekrških – uradno prečiščeno besedilo (Law on minor offences – codified version) (Uradni list RS, No 29/11), Article 204a, paragraphs 1 and 3.

the competent authority.⁴² Moreover, as members of the association representing Irish insurers,⁴³ they can also obtain indirect access to that file. In both cases, electronic access to the file is provided via a portal,⁴⁴ by means of the insured person's licence number, date of birth and surname.

39. With regard to **Spain**, it should be recalled that it is possible for third parties to check penalty points through the TEU only where it was not possible to inform a driver who committed a road traffic offence that he or she had done so. Access is also subject to two conditions, namely, that the driver is not on the Excluded Persons List and that the points have been published on the TEU.⁴⁵
40. It should be noted that access to that bulletin board is free of charge to all citizens. In order for third parties to check those points, they must know the national identity card number of the natural or legal person concerned or, where relevant, of the foreign citizen concerned, or the car's registration number. Moreover, data relating to penalty points remain accessible to third parties for one year or until payment of the fine imposed on the licence holder for the road traffic offence committed.

B. REQUIREMENTS AND ARRANGEMENTS FOR ACCESS TO DATA RELATING TO ROAD TRAFFIC OFFENCES

41. With regard to the legal orders which do not provide for a penalty point system, it should be noted, first of all, that in **Finland** personal data relating to road traffic offences can be viewed only by the licence holder to whom those data relate. This is done by means of a simple request and without the licence holder being required to demonstrate a legitimate interest.

⁴² Department of Transport, Tourism and Sport. The legal basis for the application is section 5(1) of the Road Traffic Act 2014. In order to be eligible to submit an application for access to the National Vehicle and Driver File, a motor insurer must be registered with the Central Bank of Ireland and the Motor Insurers Bureau of Ireland.

⁴³ Insurance Ireland.

⁴⁴ Integrated Information Data Service.

⁴⁵ See also paragraphs 9 and 20 of this note.

42. The same applies in **Austria**, where personal data relating to road traffic offences can also be viewed by the licence holder to whom they relate, either online or on the basis of a written or oral request. In that legal system, while it is true that any other person concerned may, either in writing or orally, submit an application to the competent authority for access to those data, acceptance of an application is subject to proof of a legitimate interest.⁴⁶ In this situation, the authority to which such an application for access is made must balance the interests of the applicant against those of the data subject in order to decide whose interests should prevail. In that regard, it is difficult to conceive of situations in which the applicant's interests would prevail, given that the competent authority must ensure respect for the data subject's rights to the protection of personal data and to private and family life.
43. Similarly, in **Estonia** the law does not impose any particular requirements for access by a licence holder to his or her own personal data relating to road traffic offences.⁴⁷ By contrast, access by any natural or legal person to a third party's personal data relating to road traffic offences is subject to a reference to a legal basis (*õiguslik alus*) or proof of a legitimate interest (*legitiimne eesmärk*).⁴⁸ In that regard, it should be noted that the validity of the legal basis or legitimate interest is generally not verified.⁴⁹

⁴⁶ Moreover, it should be pointed out that Austrian case-law is very restrictive as regards the presumption of the existence of such an interest. See, to that effect, the following judgments: Verwaltungsgerichtshof, judgments of 28 September 2011, 2009/04/0205, of 26 March 2010, 2009/17/0142, and of 27 June 2007, 2007/04/105.

⁴⁷ Law on criminal records, Article 15(1).

⁴⁸ According to the explanatory memorandum of the law introducing that requirement, in accordance with Article 6(1) of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ 2016 L 119, p. 1), the following constitute a legal basis: the consent of the data subject, compliance with a legal obligation or the protection of a public interest or the exercise of official authority, as well as the exercise of the freedom of press and information. According to the same provision, the following constitute a legitimate interest: the need to perform a contract, the need to protect the vital interests of the data subject or of any other person, as well as any other legitimate interest which overrides the interests, rights and freedoms of the data subject.

⁴⁹ The requirement for a reference to a legal basis or for proof of a legitimate interest was introduced by the Law amending the Law on criminal records, which entered into force on 15 March 2019. The previous rules relating to criminal records, which allowed the public to consult a criminal record without any basis or purpose, were subject to political criticism, because they were contrary to Article 10 of Regulation 2016/679.

44. Those data can be accessed either by means of an application,⁵⁰ in paper or electronic form, or online through the ‘E-file’ application.⁵¹
45. Finally, in **Sweden** the licence holder and any other person concerned may, on the basis of a written or oral request, gain access to personal data relating to road traffic offences contained in court decisions, provided that the decision is precisely identified. As regards the right of access of third parties to those data, it should be noted that a court may, on the basis of a case-by-case analysis, refuse to grant that access where the data whose disclosure is requested are protected by the principle of confidentiality.

V. RE-USE OF PERSONAL DATA RELATING TO ROAD TRAFFIC OFFENCES

46. At the outset, it should be noted that in the majority of the legal orders examined in this note there is no legal basis for the re-use of personal data relating to road traffic offences.
47. First, of the Member States which have a penalty point system, **Poland** and **Slovenia** alone provide for a right to re-use data relating to those penalty points.⁵² Secondly, of the Member States which do not

⁵⁰ According to the Law on criminal records, an application for the disclosure of personal data relating to road traffic offences made by a third party must contain: the name of the person to whom the application relates; confirmation of the legal basis or legitimate interest for the application; the applicant’s name and personal identification code (or, failing that, date of birth) and that of the person to whom the application relates; the name and registration code of the legal person; the applicant’s address or email address; the name and number of an identity document of the applicant; the applicant’s written or digital signature.

⁵¹ Available at: <https://www.e-toimik.ee>.

⁵² The other Member States, namely, Croatia, France, Hungary, Ireland, Italy, Romania and Spain, do not recognise a right to re-use personal data relating to road traffic offences.

have such a system, only **Finland** and **Sweden** recognise a right to re-use personal data relating to road traffic offences.⁵³

A. RULES FOR THE RE-USE OF DATA RELATING TO PENALTY POINTS

48. In the first place, as regards the legal systems having a penalty point system, it should be noted that in **Poland** the law provides that data relating to penalty points recorded in the central register of drivers may be disclosed to any person concerned for re-use.⁵⁴ However, that possibility is subject to the requirement that data subjects cannot be identified and that that disclosure must be in accordance with the provisions of the rules on the re-use of public sector information.⁵⁵
49. In the second place, in **Slovenia** any person concerned can submit an application for the re-use of data relating to penalty points.⁵⁶ Once it has received such an application, the competent authority will assess, first, whether the data in question fall within the concept of ‘public information’⁵⁷ and, secondly, whether or not those data are covered by the exception relating to the protection of personal data.⁵⁸ In practice, however, such a request will as a rule be rejected, because the competent authority will rely on the personal data protection exception.⁵⁹ The re-use of

⁵³ In Austria and Estonia, the law does not recognise a right to re-use those data.

⁵⁴ The purpose of that re-use must be stated by the person concerned in his or her application for re-use.

⁵⁵ Ustawa z dnia 20 czerwca 1997 r. Prawo o ruchu drogowym (Law of 20 June 1997 on road traffic, Dz. U. of 2020, position 110), Article 100 am., and Ustawa z dnia 25 lutego 2016 r. o ponownym wykorzystywaniu informacji sektora publicznego (Law of 25 February 2016 on the re-use of public sector information, Dz. U. of 2016, position 352).

⁵⁶ Zakon o dostopu do informacij javnega značaja (Law on access to public information, No 24/03 of 7 March 2003 and subsequent amendments).

⁵⁷ Zakon o dostopu do informacij javnega značaja (Law on access to public information, ‘the ZDIJZ’, No 24/03 of 7 March 2003 and subsequent amendments), Articles 1 and 4.

⁵⁸ IDEM, Article 6(1)(3). See also Decisions of the Information Technology Commissioner, No 090-111/2010/2 of 5 August 2010 and No 090-210/2012 of 8 November 2012.

⁵⁹ See, for example, Decisions of the Information Technology Commissioner, No 090-2/2020 of 24 January 2020 and No 021-46/2006/6 of 10 July 2006. The legal basis for that refusal is Article 6(6) of the ZDIJZ.

personal data for direct marketing purposes is not regarded as compatible with personal data protection law.

B. RULES ON THE RE-USE OF DATA RELATING TO ROAD TRAFFIC OFFENCES

50. It should be noted, in the first place, that in **Finland** the law provides for the possibility of disclosing personal data relating to road traffic offences to public and private undertakings for the purpose of conducting surveys, market research and marketing.⁶⁰ Moreover, the Traffic and Communications Authority may disclose data from the traffic register for the purpose of furthering research and development projects aimed, among other things, at improving road safety. In that context, the law expressly provides that information obtained by that authority may be disclosed only on condition that it does not allow the data subject to be identified.⁶¹
51. In the second place, in **Sweden** the provisions of the Constitution relating to the freedom of expression provide for the possibility of obtaining ‘publication authorisation’ (*utgivningsbevis*).⁶² That authorisation, obtained on application, allows private undertakings to collect court decisions in order to sell the data contained therein to the public. However, it should be noted that that practice has been the subject of much debate and has received a great deal of public criticism.⁶³

⁶⁰ Law No 320/2017 on traffic services, Article 228.

⁶¹ Law No 320/2017 on traffic services, Article 229.

⁶² Such authorisation implies that Regulation 2016/679 is not applicable where the fundamental right to freedom of expression is infringed. For further information on that authorisation, see: <https://www.datainspektionen.se/vagledning/for-dig-som-privatperson/utgivningsbevis/>.

⁶³ It is worth noting that in a 2014 decision, the justitiekansler (Chancellor of Justice), the competent authority for bringing criminal proceedings in the event of infringement, found that there was no reason to continue the activity of selling the data contained in court decisions.

C. CASE-LAW ON THE RE-USE OF DATA RELATING TO ROAD TRAFFIC OFFENCES

52. As regards the overwhelming majority of legal systems analysed, the research undertaken for this note did not allow an assessment of case-law concerning the disclosure of personal data relating to road traffic offences.
53. However, two interesting decisions from **France** and **Ireland** should be mentioned.
54. First of all, it is important to refer to a decision of the cour administrative d'appel de Paris (Administrative Court of Appeal, Paris, France) concerning the rejection of a lawyer's request to obtain a full statement of the entries relating to a client's driving licence. That rejection was held to be justified, since under the Highway Code⁶⁴ a lawyer is granted access only to information concerning the existence, category and validity of a driving licence.⁶⁵ In that case, that court held that authorisation cannot have the effect of precluding application of the rules on the disclosure of information concerning a driving licence, as provided for by the Highway Code.
55. In addition, reference should also be made to a decision of the High Court (Ireland) concerning, inter alia, the interpretation of the concept of 'data' in the context of the data protection laws in force at the time, namely the Data Protection Acts of 1988 and 2003 (DPA 1988-2003).⁶⁶ That case concerned the disclosure by the Minister for Justice, during a television broadcast, of data relating to a Member of Parliament, who was also present during that broadcast; according to those data, that Member of Parliament had been arrested by the police for committing a road traffic offence (namely, using his mobile phone while driving). That Minister had come into possession of the data disclosed in an exchange with the police.

⁶⁴ Highway Code, Article L 225-5.

⁶⁵ CAA Paris, 6th Chamber, 21 November 2006, No 04PA01132.

⁶⁶ *Shatter v Data Protection Commissioner & Anor* [2017] IEHC 670.

56. In that case, the High Court ruled on appeal that an internal email of the Irish police does not fall within the concept of data within the meaning of the DPA 1988-2003, as the personal data in question were not recorded in the police database and do not form part of a data filing system. It follows from that decision that the oral disclosure of that information does not fall within the scope of the DPA 1988-2003.

57. In order to provide an direct response to the central question raised in this note, namely whether there is a right of access to personal data relating to road traffic offences, a summary table concerning the existence of such a right in the Member States considered is attached to this summary (Annex 1). That table is accompanied by a succinct summary overview of all aspects of the rules on the right of access to personal data relating to road traffic offences (Annex 2).

[...]

ANNEX 1

SUMMARY TABLE

**EXISTENCE OF A RIGHT OF PUBLIC ACCESS TO PERSONAL DATA RELATING TO ROAD
TRAFFIC OFFENCES**

MEMBER STATES WITH A PENALTY POINT SYSTEM		MEMBER STATES WITH NO PENALTY POINT SYSTEM	
RIGHT OF ACCESS TO PENALTY POINTS	NO RIGHT OF ACCESS TO PENALTY POINTS	RIGHT OF ACCESS TO PERSONAL DATA RELATING TO ROAD TRAFFIC OFFENCES	NO RIGHT OF ACCESS TO PERSONAL DATA RELATING TO ROAD TRAFFIC OFFENCES
3 MEMBER STATES	6 MEMBER STATES	2 MEMBER STATES	2 MEMBER STATES
Ireland ¹	Croatia	Estonia	Austria ²
Poland	Spain	Sweden	Finland
Slovenia	France		
	Hungary		
	Italy		
	Romania		

¹ In contrast to Poland and Slovenia, which grant a general right of public access to data relating to penalty points, Ireland grants a right of access to data relating to penalty points only to insurers.

² Despite the existence of a constitutional principle of public access to official documents, there is no real right of access to personal data relating to road traffic offences, since such a right would not be compatible with certain other fundamental rights.

ANNEX 2

SUMMARY OVERVIEW

**RULES ON THE RIGHT OF ACCESS TO PERSONAL DATA RELATING TO
ROAD TRAFFIC OFFENCES**

Member States		Right of public access	Beneficiaries of the right of access	Requirements and arrangements for the right of access	Re-use of data
1.	Austria	no ³	Holder of the driving licence	➤ oral or written request ➤ online check	no
2.	Croatia	no	Holder of the driving licence	➤ online check	no
3.	Spain	no ⁴	Holder of the driving licence	➤ in person or online check	no
4.	Estonia	yes	Any natural or legal person	➤ reference to a legal basis or legitimate interest ➤ written request ➤ online check	no
5.	Finland	no	Holder of the driving licence	➤ request	yes
6.	France	no	Holder of the driving licence	➤ written request ➤ online check	no
7.	Hungary	no	Holder of the driving licence	➤ written request	no
8.	Ireland	yes ⁵	Holder of the driving licence	➤ oral or written request	no
			Insurers	➤ online check	
9.	Italy	no	Holder of the driving licence	➤ phone or online check	no
10.	Poland	yes ⁶	Any natural or legal person	➤ proof of a legitimate interest ➤ written request ➤ in person or online check	yes
11.	Romania	no	Holder of the driving licence	➤ written request	no
12.	Slovenia	yes	Any natural or legal person	➤ proof of a legitimate interest ➤ written request	yes ⁷
13.	Sweden	yes	Any natural or legal person	➤ oral or written request	yes

³ See footnote 2.

⁴ There is an entirely 'residual' possibility of public access to data relating to penalty points, only if those points are checked through the single bulletin board (*Tablón edictal unico*).

⁵ See footnote 1.

⁶ There is a right of public access to data relating to penalty points, through the central register of drivers.

⁷ Under Slovenian law, any person concerned can submit an application for re-use of data relating to penalty points. In practice, however, such an application will be rejected, as re-use of those data for direct marketing purposes would be contrary to the right to the protection of personal data.