Financial Penalties Reloaded – New Treaty between Germany and Switzerland

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Article

ABSTRACT

The Treaty between the Federal Republic of Germany and the Swiss Confederation on cross-border police and judicial cooperation (German-Swiss Police Treaty), concluded on 5 April 2022, puts the cross-border cooperation between the two neighbouring States on new footing. This article deals with Arts. 45 - 55 in Chapter VI of the Treaty, according to which the two States Parties provide mutual assistance in enforcing decisions by which an authority or a court of one of the States has imposed a financial penalty for violations of road traffic regulations. Following Framework Decision 2005/214/JHA on the application of the principle of mutual recognition to financial penalties, Chapter VI now closes the gap for Germany when it comes to "financial penalties/road traffic offences" with regard to Switzerland, the only neighbouring State that is not an EU Member State. The article also shares first practical experiences with Switzerland, which have been highly positive.

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I. Overview

The German-Swiss Police Treaty (also alternatively referred to as German-Swiss Police Cooperation Treaty, hereinafter: Treaty)[1] aims at further developing and expanding cross-border cooperation, on a bilateral basis, between both States Parties in the areas of police, customs, and justice. Upon entry into force on 1 May 2024, the Treaty replaced the 1999 Treaty between the Swiss Confederation and the Federal Republic of Germany on cross-border police and judicial cooperation, which ceased to be in force (Art. 64 para. 4).

This article focuses on Chapter VI of the Treaty. Chapter VI (Arts. 45 - 55) is entitled "Cooperation in the Prosecution of Road Traffic Offences"[2]. The chapter has high practical relevance and has received considerable attention in the media. Following two key definitions on "violation of road traffic regulations" (*Zuwiderhandlung gegen Vorschriften des Strassenverkehrs*) and on "monetary claims" (*Geldforderungen*) in Art. 45 of the Treaty, Art. 46 (identification of vehicle owners and drivers) and Art. 47 (transmission and content of official documents) systematically precede the subsequent phase of recognition and execution of a final financial penalty. This last phase is covered specifically by Arts. 48 - 51, which are similar in content and wording to Framework Decision 2005/214 on the application of the principle of mutual recognition to financial penalties (hereinafter: FD 2005/214).[3] The German Parliament adopted a separate Act especially for the implementation of these articles determining the competences for incoming and outgoing requests as well as the procedure in Germany (hereinafter: "Implementing Act").[4] These provisions are almost identical to the Act transposing FD 2005/214 in 2010.[5]

Besides Chapter VI, the Treaty deals with the cooperation of German and Swiss authorities in the border area, covering, for example, the exchange of vehicle data, police support in cases of imminent danger as well as joint training and education (Chapter II). Special forms of cooperation comprise observation and support in cases of major events, disasters, and serious misfortunes (Chapter III). Lastly, the Treaty contains provisions on data protection (Chapter IV) and on the legal situation of officials acting on the territory of the other State Party (Chapter V). Switzerland has concluded similar treaties with France,[6] Austria and Liechtenstein,[7] and, recently, with the Netherlands[8].[9]

II. Chapter VI of the German-Swiss Police Treaty

1. Definitions (Art. 45)

While FD 2005/214 is principally applicable to all criminal and regulatory offences (with its concept of list offences for which the double criminality check is excluded and the double criminality check for offences outside the list), the applicability of Chapter VI is, from the outset, limited to violations of road traffic regulations. According to the definition in Art. 45 para. 1, violations of road traffic regulations are criminal or regulatory offences involving conduct that infringes road traffic regulations, including breaches of regulations pertaining to driving hours and rest periods and regulations on hazardous goods. This wording is almost identical with the "road traffic list offence" in Art. 5(1) bullet 33 FD 2005/214. German practice with regard to FD 2005/214 is dominated by cases of speeding and of not keeping the appropriate distance between vehicles (regulatory offences) and by cases of driving under the influence of alcohol or driving without a license (criminal offences). The first cases confirm that such offences are also expected to play a major role in the cooperation with Switzerland.

According to Art. 45 para. 2, monetary claims refer to a sum of money on conviction of a criminal or regulatory offence, which is imposed in a decision on a natural or legal person (fines and penalties) as well

as a sum of money in respect of the costs of court or administrative proceedings leading to that decision. As in Art. 9(3) FD 2005/214, legal persons are expressly included. The decision must be final, even though the Treaty does not state this explicitly.

2. Exchange of car owner data, identification of driver, and transmission of documents (Arts. 46, 47)

Before a decision on a road traffic offence can be taken, the facts of the case need to be established, and the person responsible under the law of the State where the offence was committed needs to be identified. In addition, the person concerned needs to be served with a taken decision (in cross-border cases, regularly together with a translation),[10] and the decision must have become final before transmission to the requested State in cases where the person does not pay within a given time. In practice, this causes many more problems and time-consuming efforts than the subsequent execution of a final decision. Under the German Road Traffic Act, it is always and only the driver (not the car owner) who is liable for an offence. Therefore, German authorities have to identify the driver concerned. The data of the car owner transmitted by the other States Party, in which the vehicle is registered (Art. 46 para. 1, Art. 8), is therefore only the first step for German authorities. It is often at this point already that the prosecution of a road traffic offence committed on German territory with a vehicle having a foreign number plate is doomed to failure and comes to a premature end because the driver cannot be identified.

According to Art. 46 para. 2, the competent authorities of a States Party, upon request by the competent authorities of the other State Party, establish the identity of the driver of the vehicle at the time of the offence, question him or her about the matter, and forward any findings to the requesting authority. It remains to be seen whether Art. 46 para. 2 will improve the situation in relation to Switzerland.[11] Administrative efforts are taken into account in Art. 46 para. 3, according to which efforts to identify the responsible driver will only be undertaken if the sum of the anticipated financial penalty is at least EUR 60 / CHF 70 and if previous measures by the requesting State Party to identify the driver were unsuccessful.[12]

Art. 47 para. 1 allows for the direct cross-border transmission of official documents to the recipient, without having to transmit a request from one State to the other for service. The documents, or at least their important passages, need to be translated in accordance with Art. 12 para. 2. Documents granting the person a right to comment must contain the information specified in Art. 47 para. 2. In exceptional circumstances (Art. 47 para. 3), service by means of a request to the other State remains possible.

3. Enforcement of financial penalties for road traffic offences

a) Request for the execution of a financial penalty (Art. 48)

Art. 48 para. 1 sentence 2 No. 1 – 7 lists the requirements for a request for the execution of a financial penalty. The requirement that the financial penalty (including costs) must be at least EUR 70 (for a German request) or CHF 80 (for a Swiss request) corresponds (as far as the sum in EUR is concerned) to Art. 7(2)(h) FD 2005/214 and is designed, in both instances, to justify the effort of initiating a cross-border procedure. Besides self-evident requirements based on the rule of law and on the principle of fair trial (the right to be heard, legal remedies, enforceability, lapse of time according to the law of the requesting State), the natural person must reside in the territory of the requested State; a legal person must have its registered seat there. Obviously, the financial penalty must not yet have been paid or executed. If the financial penalty is paid in the requesting State after the request has been transmitted, the requesting State must immediately withdraw it. Looking at common practice under FD 2005/214, this is quite a frequent situation and requires swift cross-border communication to avoid double execution and the later effort of having to reimburse the second

payment. A similar, frequently occurring situation in practice is when the requesting State withdraws its request because of lapse of time; this is by Art. 49 para. 4 sentences 2 and 3.

Once the request has been transmitted, the requesting State, as in Art. 15(1) FD 2005/214, may not proceed with the (national) execution of that decision; the right of execution only reverts to the requesting State when it is informed by the requested State that the request has been rejected, that it was not possible to execute it, or if the requesting State has withdrawn its request (Art. 48 para. 2).

As regards the formal requirements, Art. 48 para. 3 sentence 3 prescribes that the request must provide a (simple) copy of the decision to be executed as well as a declaration that all substantial requirements under Art. 48 para. 1 sentence 2 No. 1 – 7 have been met. Other useful information may be added. If the request does not happen to meet these requirements, the requesting State will then be given the opportunity to provide the missing information. Unlike FD 2005/214, the Treaty does not foresee that a mandatory certificate be used.[13]

b) Grounds for refusal, obligation to notify, scope and termination of enforcement (Art. 49)

The execution of the request can be made subject to the condition that the decision be related to conduct that would constitute a criminal or regulatory offence under the law of the requested State (Art. 49 para. 1 no. 1). This upholds the traditional principle of double criminality, which has long been the cornerstone of international cooperation in criminal matters. For this reason, the Treaty did not take up the modification and simplification of the requirement of double criminality in its concept of listed offences in FD 2005/214. For the road traffic offences under discussion here, however, the double criminality requirement should not pose any obstacles.

Due to the fact that all States have jurisdiction to prosecute at least regulatory road traffic offences only if committed on their territory (e.g., speeding), the ground for refusal in Art. 49 para. 1 No. 2 (*ne bis in idem*) should not play a role in practice either; this has been proven by the practice under FD 2005/214. Art. 49 para.1 No. 3 (immunity according to the law of the requested State) captures a very rare and exceptional situation. Art. 49 para. 1 No. 4 (lapse of time according to the law of the requested State) establishes another ground for refusal; in fact, it would have been conceivable to consider only the law of the requesting State in determining whether the offence is time-barred or not. Art. 49 para. 1 No. 5 is designed to capture cases where the person on which the financial penalty was imposed did not have the chance to claim that they are not responsible for the offence; e.g. cases of strict car owner´s liability. The ground for refusal in Art. 49 para. 1 No. 6 (written procedure, insufficient information on a right of appeal and any applicable time frame) corresponds approximately to the ground for refusal in Art. 7 paragraph 2 (i) and (j) FD 2005/214. The ground for refusal in Art. 49 para. 1 No. 7 (no criminal liability of a natural person under the law of the requested State due to his or her age) mirrors that in Art. 7(2)(f) FD 2005/214.

In practice, given the experience from the application of FD 2005/214, the most important grounds hampering the execution of financial penalties are simply that the person concerned does not live at the given address and that their whereabouts cannot be established or that they do not have the financial means to pay the penalty – circumstances that are technically not recognised as grounds for refusal in the Treaty.

When the execution of a request is refused, Art. 49 para. 2 obliges the requested State to notify the requesting State and to indicate the ground(s) for refusal. As stated above, the right to execute the decision then reverts to the requesting State. In the case of a remediable obstacle, the requesting State shall be given the opportunity to supplement its request (Art. 49 para. 3).

c) Execution and conversion of the financial penalty (Art. 50)

Decisions will be executed by the competent authorities of the requested State in accordance with its national law and in its national currency (Art. 50 para. 1 sentence 1). The financial penalty shall be converted into the currency of the requested State at the official exchange rate applicable at the time the penalty was imposed (Art. 50 para. 1 sentence 2). All this is identical, in substance, to Art. 9(1) and Art. 8(2) FD 2005/214.

Should the financial penalty imposed exceed the maximum penalty under the law of the executing (= requested) State for comparable acts, the execution will be limited to that maximum penalty (Art. 50 para. 1 sentence 3). In this way, the executing State is not obliged to execute a financial penalty that is excessive according to its own law. For Germany (as executing State), this means that the "expensive" Swiss penalties in its catalogue of regulatory fines with rule sets are not to be taken into account but instead the maximum penalty provided for in § 24 para. 3 No. 5 German Road Traffic Act (*Straßenverkehrsgesetz*), namely €2000. The principle is that, up to this maximum, anyone in a foreign State must abide by the rules of this State and bear the consequences, including financial penalties imposed in accordance with the law of this State: "When in Rome, do as the Romans do!"

According to Art. 50 para. 2, the enforcement of such a decision shall be governed by the law of the requested State Party, although the requesting State Party may exclude the conversion of the monetary claim into a substitute penalty of imprisonment (*Ersatzfreiheitsstrafe*).[14]

d) Costs – accrual of monies obtained from enforcement of decisions (Art. 51)

The regulation of costs and of the accrual of monies obtained from the enforcement of decisions in Art. 51, again, basically follows FD 2005/214. According to Art. 51 sentence 1 (= Art. 17 FD 2005/214), the two States Parties shall not claim from each other the refund of costs resulting from the application of provisions of Chapter VI.

According to Art. 51 sentence 2, monies obtained from the enforcement of decisions shall accrue (without any exception) to the executing State. What makes this system convincing is the tremendous practical advantage of avoiding the additional administrative effort of the cross-border money transfer.

e) Deadline (Art. 53)

Unlike FD 2005/214, the Treaty contains a provision on its scope in terms of time. According to Art. 53, Chapter VI is only to be applied to financial penalties imposed for offences committed after the entry into force of the Treaty (on 1 May 2024).

Some of the first requests in both directions fell victim to this deadline, as authorities "on the ground" were not (yet) aware of it. The first outgoing cases from German authorities concerned offences committed on or after 1 May 2024 and did not reach the Federal Office of Justice *(Bundesamt für Justiz)* before October 2024. Before a request for the cross-border execution can be transmitted to the requested State, the offence must be investigated and sanctioned by the authorities in the requesting State, and the decision must become final there.

f) Implementing agreement (Art. 54); consultations on Chapter VI (Art. 55)

Cooperation with the responsible authorities in Switzerland has been extremely constructive and pragmatic so far. Both sides have not yet seen the necessity for a formal implementing agreement as provided for in

Art. 54, which could foresee using certificates as well as the opening and modalities of electronic communication.

According to Art. 55, both States Parties shall consult each other at regular intervals on the practical functioning and impact of Chapter VI.

g) *Ordre public* as a ground for refusal (Art. 56)

Art. 56 is entitled "exception", but it really contains the traditional *ordre public* clause. Due to its positioning in Chapter VII ("Implementing and final provisions"), this article is applicable to the entire Treaty: If a State Party believes the execution of a request or any other cooperation would jeopardize its sovereignty, its security, or any other essential interests, it shall notify the other State Party that it will refuse cooperation in whole, or in part, or that it will make cooperation subject to certain conditions.

It is to be hoped, at least when making use of Chapter VI, which is about nothing more than road traffic offences, that neither the German nor the Swiss side will see any reason to avail itself of this exception.

III. Competences and Procedure in Germany and in Switzerland

1. Germany

a) Competent authority (§ 2 Implementing Act)

According to Art. 52 of the Treaty, the two States Parties designate the authority or authorities competent for the implementation of Chapter VI when ratifying the Treaty. Although Germany has a decentralised administrative governance system with federal states (*Länder*), it decided to establish a central authority for incoming and outgoing requests. Accordingly, § 2 of the Implementing Act[15] designates the Federal Office of Justice (*Bundesamt für* Justiz) in Bonn as the responsible authority, as was the case with the implementation of FD 2005/214. The Federal Office of Justice is an authority within the remit of the Federal Ministry of Justice tasked with diverse international duties, both in criminal and civil law matters. Therefore, it can draw on its many years of experience with FD 2005/214 and on experience with over 270,000 incoming and outgoing requests since 2011 as regards the mutual recognition of financial penalties in the EU.[16]

In the context of Switzerland, German regulatory authorities and public prosecutor`s offices (responsible for the national execution of final decisions "within Germany") send their cases involving Switzerland to the Federal Office of Justice – half is sent by traditional mail and the other half is already sent electronically. The Federal Office of Justice only keeps electronic files.[17] Currently, Germany and Switzerland are working on the electronic cross-border exchange of requests. The aim is to avoid media breaks along the way.

b) Procedure for incoming requests (§§ 4 - 15 Implementing Act)

The written procedure for incoming requests is very closely modelled on §§ 86 et seq. of the Act on International Mutual Assistance in Criminal Matters (*Gesetz über die internationale Rechtshilfe in Strafsachen*)[18] that implemented FD 2005/214 into German law in 2010. The Federal Office of Justice forwards the Swiss request and any accompanying documents (Art. 48 para. 3) to the person concerned; that person will be given the opportunity to express his or her opinion within two weeks after receipt of the notice of hearing (§ 4 para. 1). The contents of the recognition decision (title of the Swiss decision, sum of the financial penalty to be executed after conversion, reasoning, information on legal remedies) are established

in § 6 para. 2. The recognition decision is to be served to the person concerned (§ 6 para. 3). That person may file an objection within two weeks after being served (§ 7 para. 1).

In the case of an objection, the local court (*Amtsgericht*) will decide; the local jurisdiction for a natural person is determined by their place of residence, just as the local jurisdiction for a legal person is determined by the location of its registered seat (§ 8). Under certain conditions, an appeal to the competent Higher Regional Court (*Oberlandesgericht*) is possible (§§ 11 - 13).

If a Swiss decision is recognized, the underlying offence may no longer be prosecuted as a criminal or regulatory offence under German law (§ 14). The enforcement as such is, again, principally the responsibility of the Federal Office of Justice; if a court has dealt with the matter, the public prosecutor`s office takes over responsibility (§ 15 para. 1). Swiss decisions – criminal or regulatory – are enforced in the same way as a German regulatory decision, including the possibility of coercive detention (§ 15 para. 2). Monies obtained from the enforcement accrue to the federal budget; if the matter had been dealt with by a court (which will always be a court in one of the 16 *Länder* (federal states)), i.e., after an objection, the money obtained from enforcement accrues to the respective federal state budget (§ 15 para. 4). Any costs of enforcement shall be borne by the person concerned (§ 15 para. 5).

c) Procedure for outgoing requests (§§ 16, 17 Implementing Act)

Art. 48 para. 2 provides that any enforcement by the requesting State is inadmissible until the request has been withdrawn or until the requested State has refused execution (cf. above II.3.a)). Again, the provisions for requests from Germany to Switzerland closely follow §§ 87p and 87q of the Act on International Mutual Assistance in Criminal Matters for outgoing requests under FD 2005/214. According to § 16 para. 1, the execution of a German decision in Germany is permanently inadmissible if the Swiss authority based its refusal on the fact that a decision against the person concerned in respect of the same act(s) had already been delivered in Switzerland or in a third State and, in the latter case, that decision had been executed (*ne bis in idem* constellation). This corresponds to Art. 7(2)(a) FD 2005/214. As the execution of a German decision in Switzerland is governed by Swiss law, the competent Swiss authority may also grant payment in instalments; in such a case, the German statute of limitations for enforcement is suspended due to the corresponding application of § 79a No. 2 c) of the German Criminal Code and § 34 para. 4 No. 3 of the German Act on Regulatory Offences, respectively (§ 16 para. 2). As indicated above (II.3.a)), this scenario requires swift cross-border communication. For an outgoing request, the application of a substitute penalty of imprisonment (*Ersatzfreiheitsstrafe*) in Switzerland is to be expressly excluded (§ 17 in line with Art. 50 para. 2, above II.3.c)); again, this corresponds to the German practice under FD 2005/214.

2. Switzerland

Like Germany, Switzerland is a federal State, but it has chosen a decentralised execution system, in which it has designated its 26 cantons as competent for incoming and outgoing requests within their respective local jurisdiction.

As Switzerland has three official languages – German, French, and Italian – the handling of the language issue is of considerable practical importance. According to Art. 60 communication between the authorities of the two States Parties under the Treaty will take place in German; however, the authorities of the French- and Italian-speaking cantons may also respond to German requests in French or Italian. Art. 60 still means a significant simplification compared to the language regime for the 27 Member States under FD 2005/214, which requires translation of an 8-page certificate and often also translation of the underlying decision and even of information on the outcome.

Interestingly, the Swiss government has mandated a consulting company to raise awareness of Chapter VI of the Treaty and to help the 26 cantons with the practical implementation and processing of requests in both directions. This company is also in close contact with the German side.

IV. Outlook

The German-Swiss Police Treaty of 5 April 2022 and its Chapter VI have created a solid basis for the cross-border execution of financial penalties imposed by the authorities in one of the two States Parties for the violation of road traffic regulations. From the German perspective, the first practical experiences have been highly positive and encouraging. Since October 2024, Germany has forwarded more than 420 requests to Switzerland; the Swiss authorities have reacted swiftly to these requests and in full alignment with the Treaty. Communication between the two sides has been considerably facilitated by said Art. 60 of the Treaty, permitting use of the German language. Taking into account the deadline in Art. 53, according to which Chapter VI is only to be applied to financial penalties imposed for offences committed on or after 1 May 2024 (the entry into force of the Treaty), many more requests in both directions can be expected in the near future.

As Chapter VI covers only road traffic offences, its practical impact will also depend on the removal of various obstacles preceding the final phase of execution in cross-border cases, in particular: establishing the facts of the case, identifying the responsible person (under German law: the driver), translating and serving the decision. To date, these obstacles still hamper an efficiently functioning cross-border system regulating road traffic offences both within the EU and – bilaterally – between Germany and Switzerland. The Treaty represents a significant advancement, however, in that it facilitates identification of drivers across the border between the two neighbouring countries, which is often challenging.

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1. Vertrag vom 5. April 2022 zwischen der Bundesrepublik Deutschland und der Schweizerischen Eidgenossenschaft über die grenzüberschreitende polizeiliche und justizielle Zusammenarbeit (Deutsch-Schweizerischer Polizeivertrag, Bundesgesetzblatt (BGBl.) 2023 II Nr. 339, S. 3; 2024 II Nr. 222). Unofficial English translation: *Treaty of 5 April 2022 between the Federal Republic of Germany and the Swiss Confederation on Cross-Border Police and Judicial Cooperation (*German-Swiss *Police Treaty), Federal Law Gazette 2023 II No. 339, p. 3; 2024 II No. 222.* Articles (Art.) cited in the text without further specification are Articles of the Treaty. The text of the Treaty is available at:< https://www.fedlex.admin.ch/eli/cc/2024/170/de>. All hyperlinks in this article were last accessed on 17 October 2025.↩
2. "Zusammenarbeit zur Verfolgung von Zuwiderhandlungen gegen Vorschriften des Strassenverkehrs".↩
3. Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties, OJ L 76, 22.3.2005, 16, as amended by Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA, and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in absentia, OJ L 81, 27.3.2009, 24.↩
4. Gesetz zur Umsetzung der vollstreckungshilferechtlichen Regelungen des Vertrages vom 5. April 2022 zwischen der Bundesrepublik Deutschland und der Schweizerischen Eidgenossenschaft über die grenzüberschreitende polizeiliche und justizielle Zusammenarbeit vom 14. Dezember 2023, BGBl. 2023 I Nr. 365 *(Act implementing the provisions for the execution of financial penalties of the Treaty of 5 April 2022 between the Federal Republic of Germany and the Swiss Confederation on Cross-Border Police and Judicial Cooperation of 14 December 2023, Federal Law Gazette 2023 I No. 365),* available in German at: <https://www.gesetze-im-internet.de/dechpolvtrug/BJNR16D0B0023.html>. Paragraphs (§§) cited in the text without further specification are paragraphs of this Act.↩
5. As regards the implementation of FD 2005/214, see Gesetz zur Umsetzung des Rahmenbeschlusses 2005/214/JI des Rates vom 24. Februar 2005 über die Anwendung des Grundsatzes der gegenseitigen Anerkennung von Geldstrafen und Geldbußen, 18 October 2010, BGBl I, 1408.↩
6. Abkommen zwischen dem Schweizerischen Bundesrat und der Regierung der Französischen Republik über die grenzüberschreitende Zusammenarbeit in Justiz-, Polizei- und Zollsachen, <https://www.fedlex.admin.ch/eli/fga/2008/108/de> (*Agreement between the Swiss Federal Council and the Government of the French Republic on Cross-Border Cooperation in the Areas of Justice, Police and Customs of 9 October 2007).* This agreement came into force on 1 July 2009.↩
7. Vertrag zwischen der Republik Österreich, der Schweizerischen Eidgenossenschaft und dem Fürstentum Liechtenstein über die grenzüberschreitende polizeiliche Zusammenarbeit, <https://www.fedlex.admin.ch/eli/oc/2017/442/de> (*Treaty between the Republic of Austria, the Swiss Confederation and the Principality of Liechtenstein on Cross-Border Police Cooperation of 4 June 2012*). The treaty came into force on 1 July 2017; the related "Durchführungsvereinbarung" (*Implementing Agreement*) of 10 September 2015 came into force on 1 August 2017, https://www.fedlex.admin.ch/eli/oc/2017/443/de.↩
8. Abkommen zwischen der Schweizerischen Eidgenossenschaft und dem Königreich der Niederlande über die Zusammenarbeit bei Zuwiderhandlungen gegen Strassenverkehrsvorschriften, <https://www.fedlex.admin.ch/eli/oc/2023/239/de> (*Agreement between the Swiss Confederation and the Kingdom of the Netherlands on cooperation in the area of road traffic offences of 26 October 2022*). The agreement came into force on 1 May 2023.↩

9. The agreement/treaty with France, Austria, and Liechtenstein comprehensively regulates cross-border cooperation and also contains provisions on the execution of financial penalties for road traffic offences (like the German-SwissPolice Treaty); the agreement with the Netherlands (with only 16 articles) covers solely the execution of financial penalties for road traffic offences.↩
10. See ECJ, 6 October 2021, Case C-338/20, *D.P. / Prokuratura Rejonowa Łódź-Bałuty* (summarised in *eucrim* 3/2021, 162-163), on the necessity in cross-border cases of a translation of the decision by the issuing authority into a language the recipient understands (ground for refusal under FD 2005/214 if the decision has not been translated). Service is also part of this step of procedure and is the responsibility of the "issuing" authority in the deciding state, which either serves the document itself, e.g. by post with international return receipt, or makes use of a request for legal assistance.↩
11. See also Art. 5c ("Mutual assistance in identifying the person concerned") of the new Directive (EU) 2024/3237 of the European Parliament and of the Council of 19 December 2024 amending Directive (EU) 2015/413 facilitating cross-border exchange of information on road-safety-related traffic offences, OJ L, 2024/3237, 30.12.2024.↩
12. Remarkably enough and without any apparent reason, these two thresholds lie slightly below the two thresholds in Art. 48 para. 1 sentence 2 No. 1 (see above II.3.a)).↩
13. Cf. Art. 54 (below II.1.f)).↩
14. Provisions on "Ersatzfreiheitsstrafe" permit a financial penalty to be substituted by imprisonment if the fine cannot be recovered (cf., for instance, §43 of the German Criminal Code).↩
15. *Op. cit.* (n. 4).↩
16. See C. Johnson and S. Loroch, "Wo steht der Rahmenbeschluss Geldsanktionen und wohin geht es mit der neuen CBE-Richtlinie?", *Deutsches Autorecht (DAR)* 2025, 285, also covering the anticipated, significant impact of the new Directive (EU) 2024/3237 on FD 2005/214 (see *op. cit.* n. 11)); C. Johnson and B. Häussermann, "Mutual Recognition of Financial Penalties", (2019) *eucrim*, 141.↩
17. As permitted by the Verordnung zur Einführung des elektronischen Rechtsverkehrs und der elektronischen Aktenführung beim Bundesamt für Justiz in Verfahren zur Vollstreckung von Geldforderungen nach dem Deutsch-Schweizerischen Polizeivertrag vom 24. April 2025 (Schweizerische-Geldforderungen-E-Rechtsverkehrs-und-Aktenführungsverordnung – CHGeldERAV), BGBl. 2023 I Nr. 123. Unofficial English translation: *Regulation on the introduction of electronic communication and of electronic file-keeping by the Federal Office of Justice in cases of execution of financial penalties under the German-Swiss Police Treaty of 24 April 2025, Federal Law Gazette 2023 I No. 123*.↩
18. This Act is available, together with an English translation, here: <https://www.gesetze-im-internet.de/irg/>.↩

* Author statement

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