

## Land and Poverty Conference 2019: Catalyzing Innovation

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Theme: **Data integration & interoperability for public service provision**

**Title:** Interconnection between Registries: The Business Registers Interconnection System (BRIS) and the European Vehicle and Driving Licence Information System (EUCARIS)<sup>1</sup>

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Jean Monnet, one of the founding fathers of the European Union, once said: *«Make men work together, show them that beyond their differences and geographical boundaries there lies a common interest».*

The very essence of the **European Union** lays on four fundamental freedoms, that is, **goods, services, capital** and **persons** can move without-restriction within European Union. They are, in fact, cornerstones of the European Single Market.<sup>2</sup>

Some of the main drivers to the development of the Single Market<sup>3</sup> are integrated networks, cross-border mobility of citizens and businesses and the digital economy.

President Jean-Claude Juncker announced, in his political guidelines<sup>4</sup>, that *«Enhancing the use of digital technologies and online services should become a horizontal policy, covering all sectors of the economy and of the public sector.»*

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<sup>1</sup> Images used at the power point presentation collected from the following papers and web sites: eu\_in\_slides\_en; azquotes; [www.eu2008.si/.../consumer\\_protection.html](http://www.eu2008.si/.../consumer_protection.html); UC3M leads European project for electronic document exchange; [www.corumgroup.com/Blog/international-companies-us-start-ups](http://www.corumgroup.com/Blog/international-companies-us-start-ups;); (CEF Building Blocks).(BRIS SS).(v1.00); <https://e-justice.europa.eu> ; <http://eulawanalysis.blogspot.com/2014/06/the-new-guidelines-for-area-of-freedom.html>; [www.eucaris.net](http://www.eucaris.net); EUCARIS Brochure v1.0 (1); <https://slideplayer.com/slide/2374574/>; <http://www.rotary-ribi.org>; [www.informationbuilders.com/blog/james-cotton/19152](http://www.informationbuilders.com/blog/james-cotton/19152); and <https://thetravelbunny.com/porto-photo-tour/> .

<sup>2</sup> <http://institutdelors.eu/publications/the-four-freedoms-in-the-eu-are-they-inseparable/>

<sup>3</sup> According to European Commission proposals in the Single Market Act II, October 2012.

<sup>4</sup> [ec.europa.eu/commission/commissioners/2014-2019/president](http://ec.europa.eu/commission/commissioners/2014-2019/president)

In the digital economy, interoperability means ensuring effective communication between digital components. It also means more efficient connections across borders, between communities and between public services and authorities<sup>5</sup>.

Businesses are expanding beyond national borders, using the opportunities offered by the internal market<sup>6</sup>. Cross-border groups, as well as many restructuring operations, such as mergers and divisions, involve companies from different Member States.

Consequently, there is an increasing demand for access to information on companies in a cross-border context.

Ensuring this information is accessible, updated and trustworthy requires cooperation and secure data exchange between business registers.

After the European Commission implemented the required technical specifications and procedures<sup>7</sup>, the **Business Registers Interconnection System (BRIS)** was set up online in June 2017.

BRIS is the infrastructure that interconnects central, commercial and companies registers, in 31 European countries<sup>8</sup> and consists of:

— The registers of the Member States, functioning according to national regulations.<sup>9</sup>

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<sup>5</sup> Using the "European Interoperability Framework".

<sup>6</sup> Article 54 of the Treaty on the Functioning of the European Union (TFEU), states, under the title of the **free movement of persons, services and capital** (Title IV), that «*Companies or firms\* formed in accordance with the law of a Member State and having their registered office, central administration or principal place of business within the Union shall (...) be treated in the same way as natural persons who are nationals of Member States*». The TFEU made the "internal market" a shared competence (Art. 4). EU law suppresses member states' existing legislation and right to legislate in these areas. Necessary competition rules for the functioning of the internal market are an exclusive competence of the Union (Art. 3) and therefore member states may not legislate. The internal market can best be defined as a more uniform and thorough-going common market. It is now regulated by Arts. 27-37 TFEU and Protocol number 27.

\* Companies or firms' means companies or firms constituted under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, save for those which are non-profit-making.

<sup>7</sup> Subsequent to Directive 2012/17/EU and to the Commission Implementing Regulation (EU) 2015/884, of 8 June 2015. The Directive 2012/17/EU was later codified by Directive 2017/1132, June 14<sup>th</sup>.

<sup>8</sup> 28 countries of the EU, Iceland, Liechtenstein and Norway.

<sup>9</sup> The Member States ensure the interoperability\* of their registers by means of identical content and interoperable technologies which constitute interfaces with the European central platform.

\*Interoperability is the ability of disparate and diverse organisations to interact towards mutually beneficial and agreed common goals, involving the sharing of information and knowledge between the organisations, through the business processes they support, by means of the exchange of data between their respective ICT systems.

- The European Central Platform (ECP)<sup>10</sup>, which integrates services and forms a common interface, that distributes information between Member States' registers; and
- The European e-Justice portal<sup>11</sup>, which provides an interface serving as European electronic access point to information on companies.

Through the e-Justice Portal citizens, businesses and public administrations have a single multi-lingual point of access to information about their business partners in their own language.

The exchange of information shall be entirely transmitted and received by electronic means and free of charge for the registers, though Member States may charge fees<sup>12</sup> for obtaining copies<sup>13</sup> of the documents.

It is relevant to note, however, that European law<sup>14</sup> tends to harmonise national rules on company law, creating some minimum standards and certain

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Member States also ensure that companies have a unique identifier\*, allowing them to be distinguished and to avoid identification errors, and to make it possible to recognise the Member State, the domestic register of origin and the company number in that register.

\*The identifier is intended to be used for communication between registers through the system of interconnection of registers. Therefore, companies continue to use their domestic registration number for their own communication purposes.

Since the objective is not to harmonise national systems, there is no obligation on Member States to change their internal systems of registers, in particular as regards the management and storage of data, fees, and the use and disclosure of information for national purposes.

<sup>10</sup> The platform is a centralised set of information technology tools. It is conceived as an instrument for the interconnection of registers and not as a distinct entity possessing legal personality.

The platform distributes information between Member States' registers in a standard message format and in the relevant language version, but never modifies either the content of the data on companies stored in domestic registers or the information about companies transmitted through the system.

<sup>11</sup> <https://e-justice.europa.eu/>

<sup>12</sup> When charged, fees can't exceed the administrative cost; however, at least, the name, legal form, office, registration number of the company and the Member State where it is registered shall be available free of charge.

<sup>13</sup> Copies may be obtained by paper or electronic means as the applicant chooses. Member States ensure that paper copies are certified as 'true copies' and that certification of electronic copies guarantees both the authenticity of their origin and the integrity of their contents.

<sup>14</sup> See Directive (EU) 2017/1132, of the European Council and the Parliament, of 14 June, relating to certain aspects of company law.

Although there is no codified European company law, harmonisation of the national rules on company law covers areas such as the protection of interests of shareholders and their rights, rules on takeover bids for public limited companies, branch disclosure, mergers and divisions, minimum rules for single-member private limited liability companies, financial reporting and accounting, and certain disclosure requirements for companies, as listed below in a summarized version:

- The instrument of constitution and the statutes and any amendments to these;
- The registered office of the company and any changes to it;
- The persons – acting alone or jointly - who are authorised to represent the company;
- The amount of the capital subscribed;

disclosure requirements, that shape the content of the information displayed by domestic registers, and accessible by the portal.

Thanks to the **Business Registers Interconnection System**, businesses, national authorities and citizens are now able to search for information filed by companies in the national registers.

The system also boosts communication between registers by allowing them to exchange information on companies.

Increased legal certainty and faster cross-border procedures have a positive impact on other administrative bodies, on those fighting fiscal fraud or money-laundering, such as tax or police authorities, as well as on judicial cooperation.

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(I would now like to move on to the European Vehicle and Driving Licence Information System)

The previous concept of free movement of persons<sup>15</sup> grew into the notion of EU citizenship<sup>16</sup>, which underpins the right of citizens to move and reside freely within the territory of the Member States.

And, obviously, with free movement comes the need for safety and security.

The Treaty on the Functioning of the European Union (TFUE) states that «*The Union shall constitute an area of freedom, security and justice with respect for fundamental rights and the different legal systems and traditions of the Member States.*

*The Union shall endeavour to ensure a high level of security (...) through measures for coordination and cooperation between police and judicial authorities (...)* »<sup>17</sup>

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- Accounting documents for each financial year;
  - The winding-up or insolvency of the company, the appointment of liquidators and the termination of a liquidation; and
  - Any declaration of nullity of the company by the courts.

<sup>15</sup> Free movement of workers and freedom of establishment, and thus individuals as employees or service providers.

<sup>16</sup> Since the implementing of the Treaty of Maastricht, the Schengen Protocol and, lately, the Treaty of Lisbon (TFUE) in 2007.

<sup>17</sup> Article 67 (1) and (3) TFEU.

Well, it is difficult to establish an Area of Freedom, Security and Justice without police cooperation.

Even before the creation of the 'European police office' (Europol) in 1995, Member States strived for cross-border police cooperation.

An example of this are the measures adopted by a small group of Member States under the Prüm Treaty<sup>18</sup>, which contained provisions on the exchange of DNA and fingerprints, as well as vehicle registration details (which I will now refer to).

The “**European Car and Driving License Information System**” (in short **EUCARIS**)<sup>19</sup> is the information exchange mechanism that provides an infrastructure and software for countries to share, between their national registration authorities, vehicle and driving licence information.

A Member State can, for example, check in EUCARIS if an imported vehicle has been reported stolen in another country; or if the vehicle should not have been scrapped, or have another colour. Likewise, when exchanging a driving licence in another country, it is possible to determine via EUCARIS whether this driving licence has been suspended abroad.

Since the development of the system, the number of countries using it and the number of services offered has been growing constantly, as the decentralized technology of EUCARIS has proven useful for the exchange of other transport related information, even if based on different legal frameworks<sup>20</sup>.

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<sup>18</sup> *Convention between the Kingdom of Belgium, the Federal Republic of Germany, the Kingdom of Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and the Republic of Austria on the stepping up of cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration*, signed on 27 May 2005 in the town of Prüm in Germany. The Prüm Treaty was fully introduced at Union level by Council Decision 2008/615/JHA of 23 June 2008.

<sup>19</sup> [www.eucaris.net](http://www.eucaris.net). EUCARIS started in 1994 as a cooperation from five European countries (BE, DE, UK, LU and NL) to fight international vehicle crime and driving licence tourism. The international co-operation has been formalised in the multi-lateral EUCARIS Treaty, signed on 29 June 2000 and formally entered into force on 1 May 2009.

<sup>20</sup> With no need to develop a new system every time a new agreement, treaty, directive, decision or any other measure comes into force.

Some applications are based on the legal framework of the EU, some are based on bi-lateral or multilateral agreements and treaties.

It started with the EUCARIS Treaty, about the exchange of vehicle and driving licence information; then the Council Decision 2008/615/JHA of 23 June 2008, on cooperation in combating terrorism and cross-border crime and the Council Decision 2008/616/JHA of 23 June 2008, regulating the exchange of vehicle and its owner or holder information; later, the Directive (EU) 2015/413 of the European Parliament and of the Council of 11 March 2015 - previously, 2011/82/EU - (CBE), on road-safety-related traffic offences, in order to retrieve vehicle holder or owner information.

Besides these, other services are provided, as referred to on the EUCARIS website:

(EU) Decisions of 2008 and, later on, the Directive of 2015, have, actually, offered EUCARIS an opportunity to widen its action.

Here is a brief overview of the main aspects of these two legal frameworks (the Decisions of 2008 and the Directive of 2015) on the conditions and procedure for the automated transfer of certain national vehicle registration data, between police and judicial authorities<sup>21</sup>, both using the EUCARIS applications especially designed for those purposes:

- Designation of a national contact point<sup>22</sup>, which will be identified by means of user-id/password or a client certificate.
- Contact points' access to national vehicle registration data relating to owners or holders and data relating to vehicles<sup>23</sup> is allowed.
- Member States ensure that the exchange of information is carried out by interoperable electronic means, conducted in a secure manner and that the data transmitted is protected.<sup>24</sup>
- The EUCARIS application connects all participating Member States in a network where each one communicates directly with another. There is no central component needed for the communication to be established.

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- 3rd Driving Licence Directive (2006/126), amendments and related documents (RESPER);
  - Regulations (EU) No. 1071/2009, 1072/2009, 1073/2009 and 1213/2010 concerning the European Register of Road Transport Undertakings (ERRU - implements Commission Regulation (EU) No 2016/403, supplementing Regulation (EC) No 1071/2009 of the European Parliament and of the Council);
  - Commission Regulation (EU) No 2017/2205, Directive (EC) No 2014/45/EU of the European Parliament and of the Council;
  - Delegated Regulation (EU) No. 305/2013 on the interoperable EU-wide eCall, a European initiative intended to bring rapid assistance to motorists involved in a collision anywhere in the European Union.

EUCARIS also allows countries to exchange information on a bilateral basis about a vehicle and its owner/holder data (enforcement of traffic violations, toll collection).

<sup>21</sup> Entities responsible for:

- the prevention and investigation of criminal offences, as well as for the maintenance of public security; and
- the enforcement of sanctions where road-safety-related traffic offences are committed with a vehicle registered in a Member State other than the one in which the offence took place, in order to establish who is personally liable for the offences listed<sup>21</sup> in article 2 of Directive 2015/413: speeding, failing to use a seat-belt, failing to stop at a red traffic light, drink-driving, driving while under the influence of drugs, failing to wear a safety helmet, the use of a forbidden lane and illegally using a mobile telephone or any other communication devices while driving.

<sup>22</sup> The powers of the national contact points are governed by the applicable national law.

<sup>23</sup> Searches may be conducted only with a full chassis number or a full registration number, and in compliance with the searching Member State's national law.

<sup>24</sup> Each Member State bears its own costs arising from the administration, use and maintenance of the software applications.

At this point, it is important to remember that the exchange of information using the interconnection systems I have outlined are subject to data protection rules, determined, currently, in Regulation 2016/679<sup>25</sup>, taking *into* consideration that technological developments and globalisation require a strong and more coherent data protection framework in the European Union.

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Bearing in mind that we are living in the XXI century, where speaking about disruptive technology is on the agenda, I would like to stress that, though the interconnection between domestic registers themselves, central platforms and portals is based on automatized electronic tools, the information supplied only accomplishes all its legal value for authorities (either judicial or administrative) businesses and citizens if it is official, accurate and authentic.

Legal certainty provided by the information displayed depends on the labour of highly qualified professionals<sup>26</sup> that guarantee, under impartial and independent decisions, the proper fulfilment of legal requirements with regard to applicable law and institutional organisation.

Maria Jose M Silva, March 2019

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<sup>25</sup> 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).

This Regulation also enhances legal and practical certainty for natural persons, economic operators and public authorities.

<sup>26</sup> Regarding the role of the Registrars, in comparison to blockchain technologies, see “Smart Contracts, Blockchain and Land Registry” by F. Mendez, in [www.elra.eu](http://www.elra.eu), whose concerns are applicable to businesses and moveable property registration.