Council of the European Union

Brussels, 28 November 2024
(OR. en)

16120/24

Interinstitutional File: 2023/0055(COD)

TRANS 508
CODEC 2203
JAI 1743
CATS 116
COPEN 515

NOTE

From:	General Secretariat of the Council
To:	Council
No. prev. doc.:	15262/24
No. Cion doc.:	6796/23
Subject:	Proposal for a Directive on the Union-wide effect of certain driving disqualifications – General approach

I. INTRODUCTION

1. Worldwide every year 1.19 million people die on the roads, and it is estimated that for every fatality five more people suffer serious injuries with life-changing consequences.[1] The United Nations' Sustainable Development Goals aim to halve global road deaths by 2030. On average, the Union has the lowest rate of fatalities, but the reduction trend has stagnated in recent years.

[1] Source: UN Road Safety fund.

2. One of the main objectives of the Union's transport policy is to improve road safety and to reduce fatalities, injuries and material damage. An important element of that policy is the consistent enforcement of sanctions for road traffic offences committed in the Union. At the informal meeting of transport ministers in Valletta in March 2017[2], the Member States called for action on the issue of mutual recognition of driving disqualifications concerning non-resident drivers: "*The transport ministers call upon the Commission to:* (…) *explore the strengthening of the Union's road safety legal framework with a particular focus on Member States' cooperation on the mutual recognition of the driving disqualifications of non-resident drivers, without prejudice to the appropriate legal base(s) for such proposals* (…)."

3. The mechanism for mutual recognition established by the Framework Decision 2008/947/JHA provides for a bilateral recognition of criminal sanctions and does not explicitly cover driving disqualifications. Furthermore, in Case C-266/21,[3] the Court ruled that "*only Directive 2006/126 governs the situation in which a Member State suspends, pursuant to its national legislation and on account of unlawful conduct in its territory, the right to drive of the holder of a driving licence issued by another Member State, in so far as it establishes that the effect of such suspension is limited to that territory alone".* Under Directive 2006/126, Member States that did not issue the driving licence may restrict the right to drive only as regards their respective territory, in line with the principle of territoriality of criminal and policy laws.

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[2] https://eumos.eu/wp-content/uploads/2017/07/Valletta_Declaration_on_Improving_Road_Safety.pdf.
In June 2017, the Council adopted conclusions on road safety endorsing the Valletta Declaration (see document ST 9994/17).

[3] Judgement of 6 October 2022, *Sofiyski gradski sad (Sofia City Court, Bulgaria)* v *HV*, C-266/21, EU:C:2022:754, paragraph 36.

4. Since it became apparent that the current EU legal framework was not sufficiently ensuring the aim of mutual recognition of the driving disqualifications of non-resident drivers within the Union, the Commission adopted, under Article 91(1), point (c) of the Treaty on the Functioning of the European Union, a Proposal for a Directive on the Union-wide effect of certain driving disqualifications ("the Proposal") on 1 March 2023 as part of the road safety package. The Proposal aims to prevent the relative impunity of non-resident road traffic serious offenders. Under the Proposal, the Member State which issued such offender's driving licence ("Member State of issuance") will be obliged to implement, under specific conditions and in accordance with its own national legislation, a driving disqualification imposed by the Member State where a serious road-safety-related traffic offence has been committed ("Member State of the offence").

II. WORK AT OTHER INSTITUTIONS

5. The European Parliament designated the Committee on Transport and Tourism (TRAN) as the responsible committee for the Proposal and appointed Mr. Petar Vitanov (BG, S&D) as the Rapporteur during the European Parliament's 9th term. The European Parliament adopted its first reading position on 6 February 2024. Mr. Matteo Ricci (IT, S&D) was appointed as Rapporteur for the European Parliament's 10th term.

6. The European Economic and Social Committee adopted an opinion on 14 June 2023. The Committee of the Regions decided not to issue an opinion. The European Data Protection Supervisor issued an opinion on 14 June 2023.

7. The Portuguese Parliament and the Czech Senate adopted resolutions, respectively, on 17 May 2023 and 31 May 2023.

III. WORK WITHIN THE COUNCIL AND ITS PREPARATORY BODIES

8. The Commission presented the road safety package comprehensively in the meeting of the Working Party on Land Transport on 2 March 2023, under the Swedish Presidency. The impact assessment was then presented and discussed on 8 March 2023 and the article-by-article examination in the Working Party started on 26 April 2023. The Spanish Presidency sent a questionnaire to delegations on 3 July 2023 to get an overview of the systems in place in Member States and the main implementation issues to be anticipated.[4]

9. Following the request from several delegations, the Council Legal Service issued an opinion on the legal basis of the Proposal and the concept of Union-wide effect on 28 February 2024.[5] The Council Legal Service confirmed that Article 91(1), point (c) of the Treaty on the Functioning of the European Union is the correct legal basis for the Proposal.

10. However, the Council Legal Service questioned the validity of the concept of Union-wide effect, as proposed by the Commission, since a Member State cannot ensure that its national decisions on driving disqualifications are implemented by the other Member States. The Council Legal Service suggested, as an alternative approach to the Union-wide effect, to build on the mutual recognition mechanisms of the new Directive on driving licences in order to achieve the same objectives as the Proposal.[6]

11. The Belgian Presidency reflected that approach in a new compromise that was discussed in the Working Party on Land Transport of 7 and 28 May 2024 and presented to COREPER, as part of a progress report on 12 June 2024.[7]

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4 WK 8793/23.
5 ST 7060/24.
6 ST 16345/23 (Council general approach) was used as the reference for the text of the future Directive on driving licences.
7 ST 11006/24.

12. While the rules on driving disqualifications are incorporated into the new Directive on driving licences, the two legislative procedures should be pursued separately, *inter alia*, considering that, in line with its right of initiative, this was also the Commission's intention. Under the chosen approach, the legislative procedure for the Proposal does not depend on the one conducted for the new Directive on driving licences.[8] Practically, it is assumed that the new Directive on driving licences will be agreed on and adopted by the co-legislators first, under the 2023/0053 (COD) ordinary legislative procedure. On substance, should some aspects of the new Directive on driving licences that are relevant for the driving disqualification directive change compared to the Council General Approach on the new Directive on driving licences, the Council's mandate for negotiations on the Driving Disqualification Directive could be adjusted in the context of the trilogue negotiations.

13. Since a majority of delegations welcomed the approach suggested by the Council Legal Service and supported that the new rules be introduced by an amendment to the new Directive on driving licences, the Hungarian Presidency developed the compromise further following the same approach. Overall, the Proposal has been discussed in the Working Party on Land Transport 15 times. Other important changes compared to the Proposal are summarised in the following paragraphs.

14. The Proposal does not require the harmonisation of national rules. The different types of driving disqualifications have been clearly defined and adaptations have been made so that all Member States can implement the Directive even when certain types of driving disqualifications do not exist in their national system (Articles 2 and 12c).

15. In order to reduce the administrative burden, driving disqualifications with a duration of less than three months and for which the remaining period to be served is less than one month have been excluded from the scope of the Directive (Article 12a(1)).

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[8] A recent example of parallel amendments of the same legislation is Directive (EU) 2023/959 of 10 May 2023 amending Directive 2003/87/EC and Decision (EU) 2015/1814 negotiated in parallel with Directive (EU) 2023/958 of 10 May 2023 amending Directive 2003/87/EC.

16. For the same reason, the information contained in the notification of the driving disqualification as well as the amount of information to be exchanged between the Member State of issuance and the Member State of the offence have been limited to the minimum necessary (Article 12a(4)). However, the Member State of issuance and the Member State of the offence have the possibility to exchange additional information where necessary.

17. All information is exchanged in secured digital format, through the EU driving licence network (RESPER) and the use of codes and structured information is privileged (Article 19(3a)). The Commission has been mandated to establish, by implementing acts, the format and content of the standard certificate for notifying a driving disqualification with the aim to facilitate a high degree of automation. The personal data to be exchanged is limited to what is necessary to fulfill the objectives of this Directive.

18. National contact point(s) designated by Member States for the purposes of the Directive will be granted access to RESPER and will ensure cooperation with the authorities competent for the implementation of the driving disqualifications (recital (25), (25a) and Article 19). In view of the principle of procedural autonomy, Member States define their internal procedures to achieve the fastest and most efficient implementation of the Directive (Recital 6).

19. Following the request of several delegations to streamline the implementation of the Proposal, the mandatory grounds for exemption were restricted to those that Member State can verify forthwith (Article 12d). Member States retain the flexibility, while transposing this Directive, to decide whether the grounds for exemption that are not mandatory should be systematically assessed or only in case there is a substantial reason to believe that they might apply. As an element of context it should be noted that such an approach is already in place in other legal instruments of EU law where all grounds for exemption are optional, e.g. under the JHA Framework Decisions[9]. In any case, the driver always has the possibility to seek legal remedy concerning the assessment and the application of the grounds for exemption by the Member State of issuance, in accordance with its national law.

[9] See Article 7 of 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, p. 16), as well as Article 11 of Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions (OJ L 337, 16.12.2008, p. 102).

20. The Member State of the offence retains the possibility, in accordance with its national rules and with effects limited to its territory, to apply driving disqualifications and any complementary conditions set thereunder until the driver complies with them. The Member State of the offence may also impose a period of prohibition for re-issuing a driving licence during which it may decide not to recognize the driving licence that was re-issued in the Member State of issuance (Article 12c(5)).

21. The Member State of issuance, on the other hand, retains the possibility to assess the fitness and competence to drive of the driver, and, following that assessment, to take any measures deemed appropriate in accordance with its national law (Article 12c(6)).

22. The provisions of this Directive on recovering the driving licence or applying for a new one after a withdrawal were aligned to the new Directive on driving licences (Article 12c(1)). Where the driver has its normal residence in the Member State of the offence, the Member State of the offence is entitled to exchange the licence for the purpose of applying the driving disqualification. Where the driver has its normal residence in another Member State, the Member State of normal residence is responsible for issuing a new driving licence, taking into account the information made available in RESPER by the Member State of issuance.

23. A review clause is introduced notably to assess the possibility of extending the application of the Directive to other driving offences or to driving disqualifications imposed in relation to offences committed on multiple occasions by the same driver (Article 20(1)). The Commission's review report may be accompanied by a legislative proposal for further revision of the Directive, as appropriate.

24. The amount and frequency of data to be reported by Member States to the Commission have been reduced (Article 20(2)) and the transposition period has been extended to 3 years.

25. The Permanent Representatives Committee endorsed the text on 27 November 2024 in preparation of the Council. The text received the support of all Member States. The Commission representative supported the work of the Presidency.

IV. CONCLUSION

26. In light of the above, the Council (Transport, Telecommunications and Energy) is invited to agree on a general approach on the compromise text attached to this note, at its meeting on 5 December 2024.

ANNEX

2023/0055 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on certain driving disqualifications, amending [NEW DIRECTIVE ON DRIVING LICENCES]

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1), point (c), thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Improving road safety is a primary objective of the Union's transport policy. In its EU Road Safety Policy Framework 2021-2030[3], the Commission recommitted to the ambitious goal to get close to zero deaths and zero serious injuries on Union roads by 2050 ("Vision Zero"), as well as to the medium-term aim to reduce deaths and serious injuries by 50% by 2030.

1 OJ C , , p. .
2 OJ C , , p. .
3 SWD(2019)283 final.

(2) In order to achieve the goal of improving road safety, the Transport Ministers of the Member States, in the 2017 Valetta Declaration on Road Safety of 29 March 2017, called for the strengthening of the Union's road safety legal framework, with a particular focus on the need for Member States to cooperate in the matter of driving disqualifications of non-resident drivers.

(3) As a result of the free movement of persons and increasing international road traffic, driving disqualifications are frequently imposed by Member States other than the one where the driver normally resides, or which issued the driving licence.

(4) So far, a Member State other than the one where the driver normally resides can take measures, in accordance with its national legislation, and as a result of unlawful conduct in its territory by the holder of a driving licence obtained in another Member State. Such measures result in refusing to recognise the validity of driving licences issued by other Member States and, therefore, in a restriction of the right to drive of the person concerned. However, the scope of those measures is limited to the territory of the Member State where the unlawful conduct took place and their effect is limited to the refusal to recognise the validity of that licence within that territory. Accordingly, in the absence of any action by the Member State that issued the driving licence, that driving licence continues to be recognised in all other Member States. Such a scenario however prevents achieving a higher level of road safety in the Union. Drivers disqualified from driving in a Member State other than the one which issued the driving licence should not escape the effects of such measure when present in a Member State other than that of the offence.

(5) In order to ensure a high level of protection for all road users in the Union, it is necessary to lay down specific rules for the implementation of driving disqualifications imposed by a Member State other than the one that issued the driving licence of the offender, which result from driving offences, within the scope of this Directive.

(6) However, the implementation of this Directive should not require the harmonisation of national rules concerning the definition of road traffic offences, their legal nature and the applicable sanctions for such offences. In particular, the implementation of driving disqualifications in the Member State of issuance should be pursued regardless of the qualification of the national measures in the Member State of the offence as administrative or criminal. In line with the principle of procedural autonomy, Member States should establish their internal procedures, within the boundaries of their national legislation, to achieve the fastest and most efficient implementation of this Directive.

(7) This Directive should be without prejudice to the rules on police and judicial cooperation in criminal matters, and on mutual recognition of related judicial decisions. Also, it should not affect the possibility of the judicial authorities of the Member States to execute decisions they have issued, in particular decisions of criminal nature. In particular, this Directive should not affect the rights and obligations stemming from Council Framework Decision 2008/947/JHA[4] and Council Framework Decision 2005/214/JHA[5], or the rights of suspects and accused persons as provided for in Directive 2010/64/EU[6], Directive 2012/13/EU[7], Directive 2013/48/EU[8], Directive (EU) 2016/343[9], Directive (EU) 2016/800[10] and Directive (EU) 2016/1919 of the European Parliament and of the Council[11].

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4 Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions (OJ L 337, 16.12.2008, p. 102).

5 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, p. 16).

6 Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings (OJ L 280, 26.10.2010, p. 1).

7 Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings (OJ L 142, 1.6.2012, p. 1).

8 Directive 2013/48/EU of the European Parliament and of the Council of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty (OJ L 294, 6.11.2013, p. 1).

9 Directive (EU) 2016/343 of the European Parliament and of the Council of 9 March 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (OJ L 65, 11.3.2016, p. 1).

10 Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings (OJ L 132, 21.5.2016, p. 1).

11 Directive (EU) 2016/1919 of the European Parliament and of the Council of 26 October 2016 on legal aid for suspects and accused persons in criminal proceedings and for requested persons in European arrest warrant proceedings (OJ L 297, 4.11.2016, p. 1).

(8) The precise aim of this Directive is to enable the Union to pursue the goal of improving road safety across the Union. As the Court of Justice has held, measures seeking to improve road safety form part of transport policy and may be adopted on the basis of Article 91(1), point (c), of the Treaty[12], in so far as they are 'measures to improve transport safety' within the meaning of that provision[13].

(9) Driving disqualifications resulting from driving offences within the scope of this Directive can consist in the withdrawal, restriction or suspension of the driving licence or the right to drive of the offender. Therefore it should be through the application of these measures by the Member State which issued the driving licence, that the implementation of the driving disqualification should be achieved in the Union.

(10) As drink-driving (namely driving with a blood alcohol level that surpasses the maximum value allowed by the law), speeding (that is to say exceeding the speed limits in force for the road or type of vehicle concerned) and driving under the influence of drugs constitute the leading causes of road traffic crashes and fatalities within the Union, the highest possible diligence should be provided for cases relating to those offences which should thus be considered as 'driving offences' for the purposes of this Directive. Furthermore, given their seriousness, road traffic offences which result in the death or serious bodily injury of the victim should also be considered as driving offences within the scope of this Directive. A driving disqualification requires the precise identification of the driver who committed a driving offence within the scope of this Directive and should not be decided on the basis of objective liability such as being the holder of the vehicle.

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12 OJ C 202, 7.6.2016.

13 Judgment of the Court (Grand Chamber) of 6 May 2014 in *Commission* v *Parliament and Council*, C-43/12, EU:C:2014:298, paragraph 43.

(10a) National penalty point schemes under which a holder of a driving licence loses or accumulates points in relation to the commission of certain offences are not covered by this Directive. Driving disqualifications should only be notified to the Member State of issuance in accordance with the provisions of this Directive if they were imposed due to the commission of a driving offence as defined by this Directive.

(11) Driving disqualifications imposed by a Member State on a person who holds a driving licence issued by another Member State, should have effects across the entire territory of the Union, in similar terms as driving disqualifications imposed with respect to persons who hold driving licences issued by that Member State already have. Also in view of the principle of procedural autonomy, Member States should be free to decide how to best achieve that result in accordance with their national law.

(12) The Member State which imposed the driving disqualification ("Member State of the offence") should notify without undue delay the Member State that issued the driving licence of the person concerned ("Member State of issuance") of any driving disqualification imposed for a duration of at least three months on such person and for which, at the moment of the notification, the remaining period of the suspension or of the restriction to be served pursuant to the driving disqualification is more than one month, in order to trigger the procedures necessary to ensure the implementation of the driving disqualification in the Member State of issuance. Such notification should be transmitted in electronic form by means of a standard certificate, in order to ensure a seamless, reliable and effective exchange of information between the Member States.

(13) The standard certificate should contain a minimum set of data allowing for the proper implementation of this Directive, in particular the authority of the Member State of the offence imposing the driving disqualification, the driving offence committed, the resulting driving disqualification, and the person concerned. To that end, the Commission should update the codes included in Annex I, Part E pursuant to a delegated act under this Directive, in order for them to be available well before the date of transposition of this Directive. Through providing only for this information the standard certificate can guarantee effectiveness without obliging Member States to share not proportionate or excessive amounts of information.

(13a) Such certificate should also be translated into an official language of the Member State of issuance or to any other language that the Member State of issuance has accepted, in order to ensure quick processing by the addressee.

(14) The imposition of driving disqualifications as a consequence of unlawful conducts contributes to guaranteeing a high level of road safety within the Union. Based on the principle of mutual recognition of driving licences issued in the Member States, measures concerning the withdrawal, cancellation, suspension or restriction of a driving licence issued by the Member State of issuance can automatically be enforced by all other Member States, given that the offender cannot present a valid document to verify his or her driving rights. Therefore, upon notification of the imposed driving disqualification, and unless a ground for exemption applies or is invoked, the Member State of issuance should take the appropriate measures to implement the driving disqualification.

(15) The measure taken by the Member State of the issuance should vary depending on the specific nature of the driving disqualification. Given that a withdrawal, suspension or restriction of a driving licence or right to drive necessarily have different consequences, they require different procedures to be implemented in compliance with the competences of the Member States involved. In particular, specifically as regards withdrawal, the person concerned should be able to recover the right to drive or the driving licence or apply for a new one in accordance with the provisions of the [NEW DIRECTIVE ON DRIVING LICENCES]. Where the possibility of a withdrawal is not provided in the Member State of issuance, the Member State of issuance should suspend the driving licence, assess the fitness or competence to drive of the driver, and take any measure deemed appropriate following that assessment. As regards suspension or restriction, it should be ensured that only the duration of such measures is implemented, even where the driving disqualification provides for complementary conditions because the primary goal of those measures is to temporarily or partially prevent the person concerned from driving and not to determine how that person should recover her or his right to drive in the Member State of issuance. However this should be without prejudice to the right to assess whether the person concerned by the driving disqualification poses a risk to road safety and to adopt measures according to such assessment.

(15a) Where a Member State imposes a driving disqualification on a person having normal residence in that Member State, but holding a driving licence issued by another Member State, the former is entitled to exchange the licence for the purpose of applying that driving disqualification. Where the Member State of the offence withdraws the driving licence of a person having normal residence in a Member State other than the Member State of issuance, the Member State of normal residence should be responsible for issuing a new driving licence, taking into account the information made available in the EU driving licence network, as referred to in the [NEW DRIVING LICENCE DIRECTIVE], by the Member State of issuance.

(16) The Member State of the offence should be able to continue to apply, in accordance with its national rules and with effects limited to its territory, driving disqualifications and any complementary conditions set thereunder until the person concerned complies with them. The Member State of the offence may also impose requirements concerning the lapse of a fixed period of time, such as periods of prohibition for re-issuing or obtaining a new driving licence which should not be considered as complementary conditions within the meaning of this Directive. During such a period of prohibition, the Member State of the offence may decide not to recognize the driving licence, that was re-issued or newly obtained in the Member State of issuance. However, after the lapse of such a period of prohibition, a driving licence issued by the Member State of issuance, including if it was issued during such a period, should be recognized by the Member State of the offence.

(16a) This Directive should be without prejudice to the provisions of the [NEW Directive on Driving Licences], stating that a driving licence should be considered as restricted, suspended, withdrawn, or cancelled as long as the person concerned is yet to fulfil any conditions, imposed by the Member State of issuance, with which that person must comply with in order to be able to recover the driving licence or to be able to apply for a new one. In case a driving licence is mistakenly issued to an applicant who has yet to fulfill any such conditions, Member States should be able to refuse its recognition, also after the end of a period of prohibition.

(17) Where the Member State of issuance has adopted measures to implement the driving disqualification and, following that, has reassessed whether the person concerned is suitable to recover a driving licence or the right to drive, that assessment should be recognised across the entire Union and therefore also in the Member State of the offence, if applicable, after a fixed period of time imposed as part of the driving disqualification by the Member State of the offence has passed.

(18) The application of measures by the Member State of issuance should serve the purpose of ensuring that a driving disqualification is implemented and should not require a new assessment of the facts that lead to the disqualification.

(18a) In order to guarantee that the implementation of a driving disqualification is not contrary to the principle of proportionality, fundamental rights or exceptions provided for in the law of the Member State of issuance, it is appropriate to lay down certain grounds that exempt the Member State of issuance from the obligation of adopting measures. Member States might decide in respect of the grounds for exemption that are not mandatory that such grounds should either be systematically assessed by the competent authority or should be assessed only in case there is a substantial reason to believe that they might apply. In any case, the person concerned by the driving disqualification should always have the possibility to seek legal remedy concerning the assessment and the application of the grounds for exemption by the Member State of issuance, in accordance with its national law.

(19) In the interest of road safety and in order to provide legal certainty for the person concerned and for the Member State of the offence, the Member State of issuance should implement the driving disqualification or apply a ground for exemption without undue delay, and in any case within the time-limits, if any, prescribed under national rules to impose a driving disqualification. The Member State of issuance should inform the Member State of the offence about the period and reason for delay.

(20) The proper implementation of this Directive presupposes close, swift and effective communication between the competent national authorities involved. All communications between the Member State of the offence and the Member State of issuance for the purpose of implementing a driving disqualification should be made through the EU driving licence network as referred to in the [NEW DRIVING LICENCE DIRECTIVE]. The competent national authorities of the Member States should therefore consult each other whenever necessary. Moreover, in specific well-defined cases, both the Member State of issuance and Member State of the offence should provide each other with important information in relation to the application of this Directive without delay. This should be the case for the adoption of measures implementing driving disqualifications, decisions taken on grounds of exemption, the completion of the driving disqualifications and for any circumstances affecting the originally imposed driving disqualifications.

(21) After being notified of a driving disqualification and implementing it, the Member State of issuance should inform the person concerned without delay, in order to allow the exercise of fundamental rights such as the right to be heard and to challenge the measures taken by the Member State of issuance before the competent national courts and tribunals.

(22) Member States should ensure that adequate legal remedies against measures taken pursuant to this Directive are in place, and that information about such remedies is provided when those remedies become applicable, and in due time to ensure that they can be exercised effectively. However, the driving disqualification decided by the Member State of the offence cannot be challenged in an action brought in the Member State of issuance.

(23) The protection of natural persons in relation to the processing of their personal data is a fundamental right. In accordance with Article 8(1) of the Charter of Fundamental Rights of the European Union and Article 16(1) of the Treaty, everyone has the right to the protection of personal data concerning them. The relevant Union legislation, namely Regulation (EU) 2016/679 of the European Parliament and of the Council and Directive (EU) 2016/680 of the European Parliament and of the Council, should apply to the processing of personal data in the context of this Directive in accordance with their respective scope of application.

(24) This Directive establishes the legal basis for the exchange of personal data for the purpose of implementing driving disqualifications imposed by a Member State, other than the Member State of issuance. This legal basis is in line with Article 6(1)(c) and, where applicable, Article 10 of Regulation 2016/679, and Article 8 of Directive 2016/680. The personal data to be exchanged with the Member State of issuance should be limited to what is necessary to comply with the obligations laid down in this Directive.

(25) In order to ensure the seamless, reliable and effective exchange of information, each Member State should designate national contact point(s) for the purposes of this Directive. They should further ensure that their respective national contact points cooperate with the authorities competent for the enforcement of the driving disqualifications covered by this Directive, in particular to ensure that all necessary information is shared in due time.

(25a) Member States might designate one or multiple national contact points and competent authorities to fulfill the tasks necessary for the implementation of this Directive and they might define the rules for cooperation amongst those national entities, in order to facilitate the efficient implementation of this Directive.

(25b) In the interest of effective enforcement, Member States should ensure that the competent authorities check the right to drive, especially when there is a doubt whether the driver concerned is under the effect of a disqualification, taking into account the cases when driving licences were not physically collected.

(26) Member States should regularly collect statistics on the application of this Directive, and send them to the Commission, initially four years after the entry into force of this Directive and then every five years.

(27) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission to establish the format and content of the standard certificate for notifying a driving disqualification. The implementing acts should aim to facilitate a high degree of automation when it comes to the handling of notification by the Member State of issuance. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[14].

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14 Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers, OJ L 55, 28.2.2011, p. 13

(28) Since the objectives of this Directive, namely to implement decisions imposing driving disqualifications which result from driving offences within the scope of this Directive, with the goal to improve the levels of road safety across the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of this Directive, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union[15]. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(29) The [NEW DIRECTIVE ON DRIVING LICENCES] should therefore be amended accordingly.

(30) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council[16] and delivered an opinion on 14 June 2023,

HAVE ADOPTED THIS DIRECTIVE:

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15 OJ C 202, 7.6.2016, p. 13.

16 Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39

Article 1

[NEW DIRECTIVE ON DRIVING LICENCES] is amended as follows:

1. Point (e) is added to Article 1(1):

‘(e) Notification and implementation of a driving disqualification imposed due to the commission of driving offences referred to in Article 2, point (12h) in a Member State other than the Member State of issuance or than the Member State of normal residence.’

2. Point (12) of Article 2 is amended as follows:

‘(12) ‘driving disqualification’ means any decision of a competent authority which results in the withdrawal, cancellation, restriction or suspension of the driving licence or of the right to drive of a driver of a power-driven vehicle[17] and which has become enforceable, irrespective of whether it is qualified as an administrative or criminal measure. The measure may constitute a primary, secondary or supplementary penalty or a safety measure;’

3. The following points are added to Article 2:

‘(12a) ‘withdrawal’ means the revocation of the driving licence, or of its recognition, or of the right to drive, as defined by the national legislation of the Member State of the offence or, in case where the driving licence is revoked for other reasons, of the Member State withdrawing the driving licence or its recognition**;**

(12b) ‘suspension’ means the temporary limitation of the validity of the driving licence or of its recognition, or of the right to drive, for a fixed period of time, or for both a combination of a fixed period of time and the fulfilment of complementary conditions, as defined by the national legislation of the Member State of the offence or, in case where the validity of the driving licence is temporarily limited for other reasons, of the Member State suspending the driving licence or its recognition;

[17] As defined in Article 2, point 4 of the [NEW DIRECTIVE ON DRIVING LICENCES].

(12c) ‘restriction’ means the partial limitation of the validity of the driving licence or of its recognition, or of the right to drive, either for a fixed period of time, or subject to the fulfillment of complementary conditions, or for both a combination of a fixed period of time and the fulfilment of complementary conditions, as defined by the national legislation of the Member State of the offence or, in case where the validity of the driving licence is partially limited for other reasons, the Member State restricting the driving licence or its recognition;

(12d) ‘cancellation’ means the invalidation of the driving licence, its recognition or the right to drive, on administrative grounds such as not fulfilling the criteria for issuing a driving licence or acquisition of the driving licence using fraudulent means, as defined by the national legislation of the Member State invalidating the driving licence or its recognition;

(12e) ‘complementary conditions’ means conditions other than the lapse of a fixed period of time that a person concerned by a driving disqualification must or can comply with in order to recover or facilitate the recovery of his or her right to drive or driving licence;

(12f) ‘Member State of the offence’ means the Member State where the offence was committed;

(12g) ‘Member State of issuance’ means the Member State that issued the driving licence;

(12h) ‘driving offence’ means the following road-safety-related traffic offences:

(a) drink-driving as defined in Article 3, point (g), of Directive (EU) 2015/413 of the European Parliament and of the Council[18];

(b) speeding as defined in Article 3, point (d), of Directive (EU) 2015/413;

(c) driving under the influence of drugs as defined in Article 3, point (h), of Directive (EU) 2015/413;

(d) a conduct which infringes road traffic regulations, and which caused, with a power-driven vehicle, death or serious bodily injury of another person, as defined in the national law of the Member State of the offence.’

[18] Directive (EU) 2015/413 of the European Parliament and of the Council of 11 March 2015 facilitating cross-border exchange of information on road-safety-related traffic offences Text with EEA relevance (OJ L 68, 13.3.2015, p. 9).

4. Article 12a is added:

‘*Article 12a*

Duty to notify driving disqualifications

1. After verification, if appropriate, that the normal residence of the person concerned by the driving disqualification is not the Member State of the offence, the Member State of the offence shall notify without undue delay the Member State of issuance of a driving disqualification in case all following conditions are fulfilled:

(a) the driving disqualification constitutes a withdrawal, suspension or restriction of the driving licence or the right to drive;

(b) the driving disqualification was imposed due to the commission of a driving offence, as referred to in Article 2(12h), in accordance with the national rules of the Member State of the offence;

(c) the driving disqualification is no longer subject to the right of appeal in the Member State of the offence;

(d) in case the driving disqualification is imposed for a fixed period of time, its duration is of at least 3 months;

(e) at the moment of the notification, the remaining period of the suspension or of the restriction to be served pursuant to the driving disqualification is more than one month;

(f) the person concerned does not have their normal residence in the Member State of the offence and does not hold a driving licence issued by the Member State of the offence; and

(g) the person concerned by the driving disqualification has been identified as the driver who has committed a driving offence referred to in Article 2(12h).

2. The notification referred to in paragraph 1 shall be made in accordance with the procedure set out in paragraph 3.

3. The competent authority of the Member State of the offence shall complete, sign and transmit the standard certificate on disqualification to the competent authority of the Member State of issuance in accordance with Article 19(3a) of this Directive. The decision imposing the driving disqualification and the driving licence of the person concerned by the driving disqualification, if it has been seized, shall also be transmitted by the competent authority of the Member State of the offence to the competent authority of the Member State of issuance.

4. The standard certificate on disqualification shall be transmitted in an electronic form. The certificate shall contain at least the following structured information:

(a) name and address of the competent authority that imposed the driving disqualification in the Member State of the offence;

(b) type of the driving offence as referred to in Article 2(12h);

(bb) description of the facts leading to the imposition of the driving disqualification, including the applicable legal provisions in the Member State of the offence;

(bbb) where applicable, the method used to detect the driving offence as referred to in Article 2(12h) and the results of the respective measurements at the time of the offence;

(c) the following data in relation to the person concerned by the driving disqualification: their name; the address used for communication by the Member State of the offence; the number of their driving licence; if necessary, the number of the national identification documents; where available, the driver number;

(d) the precise scope, content and duration of the driving disqualification, including, if applicable, the date on which the disqualification process commenced, the date on which the suspension or the restriction ceases to have effect, codes listed in Annex I, part E, and any complementary conditions set by the Member States of the offence;

(e) the period (in days) of the driving disqualification imposed by the Member State of the offence, which has already been served in that Member State, where applicable;

(f) if applicable, any period of prohibition for re-issuing or obtaining a new driving licence applicable in the Member State of the offence;

(g) notice whether the person concerned was notified of the driving disqualification in the Member State of the offence, whether the person concerned appealed the decision in the Member State of the offence and whether the person concerned was represented in the procedure.

5. At least six months before the date of transposition, the Commission shall, by way of an implementing act, establish:

(a) the format and content of the standard certificate on disqualification for the notification of a driving disqualification referred to in this Article; and

(b) the format for the information provided under Articles 12e and 12f.

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 22(2).'

4a. Article 12aa is added:

'*Article 12aa*

Specifications concerning the language of the standard certificate on driving disqualifications

1. The standard certificate on disqualification referred to in Article 12a(4) shall be transmitted in any EU official language of the Member State of issuance, or in any other EU official language that the Member State of issuance has accepted in accordance with paragraph 2.

2. Any Member State may, at any time, state in a declaration notified to the Commission that it will accept standard certificates on disqualification in one or more official languages of the Union. Such declaration can be modified or withdrawn at any time. The Commission shall make this information available to all Member States, including in the EU driving licence network, as referred to in Article 19(1), in order to facilitate the notification by Member States.

3. There shall be no obligation for the Member State of the offence to translate the decision imposing the driving disqualification.'

5. Article 12b is added:

'*Article 12b*

Obligation on the Member State of issuance to implement a driving disqualification imposed by the Member State of the offence

1. The Member State of issuance shall ensure that its competent authorities have the power to implement a withdrawal, restriction or suspension of the driving licence on the basis of a driving disqualification notified to them in accordance with Article 12a.

2. Without prejudice to the grounds for exemptions laid down in Article 12d, the Member State of issuance shall ensure that in cases where its competent authorities receive a standard certificate on driving disqualification in accordance with Article 12a, such authorities, following the procedure set out in Article 12c, shall withdraw, suspend or restrict the driving licence.'

6. Article 12c is added:

'*Article 12c*

Implementation of a driving disqualification notified to the Member State of issuance

1. If the driving disqualification entails a withdrawal in the Member State of the offence, the measures taken by the Member State of issuance shall comply with the following conditions:

(a) the Member State of issuance shall either:

i. withdraw the driving licence of the person concerned or,

ii. where the withdrawal is not provided in the Member State of issuance, suspend the driving licence for an amount of time defined under the national law of the Member State of issuance for the same driving offence as referred to in Article 2(12h), assess the fitness or competence to drive of the driver, and take any measure deemed appropriate following that assessment.

The Member State of issuance shall register the withdrawal or the suspension in its national system and exchange this information in accordance with Article 19(3a) of this Directive;

(b) In case of a withdrawal, the person concerned may recover his or her right to drive or his or her driving licence or apply for a new one in accordance with Articles 10, 13 and 17;

(c) the Member State of issuance shall take into account insofar as compatible with its national legislation the complementary conditions which the person concerned shall comply with and that have been already fulfilled in the Member State of the offence.

2. Where the driving disqualification consists in a suspension or a restriction, the measures taken by the Member State of issuance shall comply with the following conditions:

(a) the Member State of issuance shall suspend or restrict the validity of the driving licence of the person concerned by the suspension or restriction, until the date on which the suspension or the restriction imposed and notified by the Member State of the offence ceases to have effects or until the date corresponding to the duration applied by the Member State of issuance for the same offence if it is shorter than the duration imposed by the Member State of the offence. The Member State of issuance shall register the measure taken in the national driving licence register and exchange the information in accordance with Article 19(3a);

(b) where the suspension imposed and notified by the Member State of the offence is subject both to the lapse of a fixed amount of time and the fulfilment of complementary conditions, the Member State of issuance shall take into account only the fixed period of time;

(c) where a restriction is imposed and notified by the Member State of the offence, it shall be taken into account insofar as compatible with the law of the Member State of issuance in terms of its nature.

3. Without prejudice to the ground for exemption laid down in Article 12d(1), point (a), when adopting measures under this Article, the Member State of issuance shall be bound by and rely on the information and facts provided by the Member State of the offence in accordance with Article 12a.

4. The Member State of issuance shall take the measures referred to in this Article or adopt the decision that a ground of exemption pursuant to Article 12d applies without undue delay, and in any case within the time-limits, if any, prescribed under national rules to impose a driving disqualification.

5. Nothing in this Directive shall prevent the Member State of the offence from:

(a) executing the driving disqualification within its territory, for its entire duration, and in accordance with its national rules and provided that the conditions defined in the second and third subparagraphs are satisfied; and

(b) not recognizing the driving licence that was re-issued or newly obtained, for the duration of a prohibition on re-issuance or obtention of a new driving licence applicable in the Member State of the offence.

Where a driving disqualification containing complementary conditions has been notified to the Member State of issuance in accordance with Article 12a, the Member State of the offence may continue to apply such driving disqualification within its territory until the person concerned complies with those conditions. The Member State of the offence shall indicate in the EU driving licence network when the person concerned has fulfilled the complementary conditions.

In any case, complementary conditions attached to a driving disqualification notified in accordance with Article 12a shall be deemed to be fulfilled by the Member State of the offence where the Member State of issuance has positively assessed that the person concerned fulfills the conditions applicable in the Member State of issuance for recovering the right to drive or the driving licence or to be able to apply for a new one. The Member State of issuance shall indicate in the EU driving licence network when the person concerned has fulfilled the complementary conditions.

6. Nothing in this Directive shall prevent the Member State of issuance from assessing the fitness and competence to drive of the holder of the driving licence, and, following that assessment, take any measures deemed appropriate in accordance with its national law, also taking into account the measures taken by the Member State of the offence, in case there is reason to believe that the fitness or competence of the holder of the driving licence poses a risk to road safety.'

7. Article 12d is added:

'*Article 12d*

Grounds for exemption

1. The Member State of issuance shall not take the measures referred to in Articles 12c(1) and 12c(2) where:

(a) the certificate referred to in Article 12a is incomplete or manifestly incorrect and the missing and the correct information has not been provided in accordance with paragraph 3 of this Article;

(b) on the basis of information received from the Member State of the offence in accordance with Article 12e(2), point (b), it is established that the driving disqualification has already ended in the Member State of the offence at the date when the measures referred to in Articles 12c(1) or 12c(2) would be adopted by the Member State of issuance.

2. The Member State of issuance may, in accordance with their national law, also apply the following grounds of exemption:

(a) the driving disqualification relates to a driving offence as referred to in Article 2(12h) that, on the basis of the information notified under Article 12a, would not be sanctioned with a driving disqualification under the law of the Member State of issuance;

(b) the driving disqualification was imposed only on grounds of speeding and the speed limits in force in the Member State of the offence were exceeded, in the case of urban roads, by less than 30km/h and, in the case of non-urban roads, by less than 50 km/h;

(c) the driving disqualification is statute-barred in accordance with the law of the Member State of issuance;

(d) there is a privilege or immunity under the law of the Member State of issuance that prevents the execution of the driving disqualification;

(e) there is substantial ground to believe that fundamental rights or fundamental legal principles as enshrined in the Charter of Fundamental Rights of the European Union are likely to be infringed upon; or

(f) the driving licence concerned by the notification is already subject to measures referred to in Articles 12c(1) or 12c(2) taken on the basis of an earlier notification and which are of a longer duration.

3. The Member State of issuance may request any necessary information for the purpose of examining whether a ground for exemption referred to therein applies. The Member State of the offence shall provide the requested information without delay and may provide any additional information or comment it deems relevant.

Information provided under this paragraph shall not include personal data other than those strictly necessary for the application of paragraphs 1 and 2 and shall be used for the sole purpose of applying those paragraphs.'

8. Article 12e is added:

‘*Article 12e*

Information to be exchanged between Member States when implementing a driving disqualification imposed by a Member State other than the Member State of issuance

1. The competent authority of the Member State of issuance shall without delay communicate to the competent authority of the Member State of the offence, in a structured and digital way, in accordance with Article 19(3a), the measures taken under Article 12c or the decision that a ground of exemption applies pursuant to Article 12d together with the reasons for the decision.

2. If applicable, the competent authority of the Member State of the offence shall without delay inform the competent authority of the Member State of issuance of:

   (a) any circumstance that affects the decision that imposed the driving disqualification;

   (b) the end of the driving disqualification in the Member State of the offence.’

9. Article 12f is added:

‘*Article 12f*

Information to be provided to and legal remedies available for the person concerned by a driving disqualification imposed by a Member State other than the Member State of issuance

1. Following the reception of the notification under Article 12a and the adoption of measures under Articles 12c(1) and 12c(2), respectively, the Member State of issuance shall inform the person concerned without delay, in accordance with procedures under its national law.

2. The information to be provided in accordance with paragraph 1 shall at least specify:

(a) in case the information is given following the reception of the notification under Article 12a(1):

i. the name of the authorities competent for the enforcement of the driving disqualification of both the Member State of issuance and the Member State of the offence; and

ii. legal remedies available under the law of the Member State of issuance, including the right to be heard;

(b) in case the information is given following the adoption of measures taken under Article 12c(1) and 12c(2):

i. the details of the measures taken by the Member State of issuance;

ii. legal remedies available under the law of the Member State of issuance to challenge the measures taken;

iii. the information on the procedure to follow for re-obtaining the driving licence.'

3. Member States shall ensure adequate legal remedies against decisions or measures taken pursuant to Article 12a to Article 12f of this Directive, in particular concerning legal remedies against the non-application of a ground for exemption. They shall take the appropriate measures to ensure that information about such remedies is provided in due time to ensure that they can be exercised effectively.

4. A driving disqualification notified under Article 12a may be challenged only in an action brought in the Member State of the offence.

5. The Member State of the offence and the Member State of issuance shall inform each other about the legal remedies sought against decisions or measures taken pursuant to Article 12a to Article 12f of this Directive. Upon request of the Member State of issuance, the Member State of the offence shall provide to the Member State of issuance any necessary information for the purpose of paragraph 3.'

10. In Article 19(2), point (e) is deleted.

11. In Article 19, the following paragraph is added:

‘3a. All communications between the Member States pursuant to Articles 12a to 12f of this Directive shall be made through the EU driving licence network referred to in paragraph 1. To that end, Member States shall grant access for the EU driving licence network referred to in paragraph 1 to national contact point(s) designated for the purposes of those provisions.

Member States shall ensure that their respective national contact points cooperate with the authorities competent for the enforcement of the driving disqualifications imposed for the commission of driving offences as referred to in Article 2(12h).’

12. In Article 20, the second subparagraph is replaced by the following:

‘By [entry into force + 5 years], and every five years thereafter, the Commission shall present a report to the European Parliament and the Council on the implementation of this Directive by the Member States, including its impact on road safety. The report shall also assess the possibility to further extend the application of Articles 12a to 12f of this Directive to driving disqualifications resulting from driving offences other than those referred to in Article 2(12h), or to driving disqualifications imposed in relation to offences committed on multiple occasions by the same person, and to further facilitate the implementation of a driving disqualification imposed in Member States other than the Member State of the issuance or normal residence. The report shall be accompanied, if appropriate, by a proposal to the European Parliament and the Council for further revision of this Directive.’

13. In Article 20 the following paragraph is inserted after the first paragraph:

‘2. By [entry into force + 4 years], and every five years thereafter, as part of the information provided under paragraph 1, first subparagraph, Member States shall inform the Commission, based on data gathered for each calendar year, about:

(a) the number of notifications received under Article 12a(1), broken down by Member State of the offence;

(b) the number of times a ground for exemption was invoked, including the grounds for exemption applied, broken down by notifying Member State; and

(c) any useful information regarding the proper functioning and effectiveness of this Directive.'

Article 2

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within three years of the entry into force of this Directive. They shall forthwith communicate to the Commission the text of those provisions.

   When Member States adopt those provisions, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. By [DD/MM/YYYY], Member States shall communicate to the Commission the text of the main provisions of their national law which they adopt in the field covered by this Directive.

Article 3

Entry into force and application

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article 4

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*