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Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the Union-wide effect of certain driving disqualifications**

(Text with EEA relevance)

{SWD(2023) 128-129} - {SEC(2023) 350}

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **• Reasons for and objectives of the proposal**

Improving road safety is a prime objective of the Union's transport policy. The Union is pursuing a policy to improve road safety with the objective of reducing fatalities, injuries and material damage.

Over the last 20 years, EU roads have become significantly safer. The number of road fatalities has gone down by 61.5% from around 51,400 in 2001 to around 19,800 in 2021. Nevertheless, the improvement in road safety has not been strong enough to meet the EU's political ambition to decrease the number of road deaths by 50% between 2001 and 2010, and by additional 50% between 2011 and 2020 (i.e. by 75% between 2001 and 2020) stemming from a number of strategic documents issued by the Commission over the last two decades, such as the *White Paper on European Transport Policy for 2010*<sup>1</sup>, or the Communication from the Commission on *Towards a European road safety area: policy orientations on road safety 2011-2020*<sup>2</sup>. In its *Sustainable and Smart Mobility Strategy*<sup>3</sup> of 2020, the Commission committed to target zero fatalities in all modes of transport by 2050.

While the number of road fatalities in 2020 was 17% lower than in 2019, this was heavily influenced by an unprecedented drop in road traffic volumes in the wake of the COVID-19 pandemic<sup>4</sup>. In the years before 2020, there was hardly any drop in the number of road fatalities. This slowdown, that already appeared around 2014, prompted the Transport Ministers of the Member States of the Union to issue a ministerial declaration on road safety at the informal transport Council in Valletta in March 2017<sup>5</sup>. In that declaration, the Member States called upon the Commission to explore the strengthening of the Union's road safety legal framework to reverse that stagnating trend.

The Valletta Declaration<sup>6</sup> explicitly 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 (...).”*

In that context, an important element of the Union's efforts to improve road safety is the consistent enforcement of sanctions for road traffic offences committed in the Union. However, under the current legal framework, the sanction of driving disqualification cannot

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<sup>1</sup> COM(2001) 370 final.

<sup>2</sup> COM(2010) 389 final.

<sup>3</sup> COM(2020) 789 final.

<sup>4</sup> During the first lockdown in April 2020, the European Transport Safety Council (ETSC) reported a 70-85% reduction in traffic volumes in major European cities (<https://etsc.eu/covid-19-huge-drop-in-traffic-in-europe-but-impact-on-road-deaths-unclear/>)

<sup>5</sup> See: [https://eumos.eu/wp-content/uploads/2017/07/Valletta\\_Declaration\\_on\\_Improving\\_Road\\_Safety.pdf](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 9994/17).

<sup>6</sup> Valletta Declaration on Road Safety, 2015, point 9(c).

be granted a Union-wide effect where the offence is committed in a Member State other than the one which issued the driving licence.

Because the issuance of a driving licence is a sovereign act, such document cannot be withdrawn with the same effect by another Member State. Therefore, only the Member State that issued the driving license can withdraw it with a Union-wide effect. Other Member States may only restrict the right to drive as regards their respective territory, in line with the territoriality principle<sup>7</sup>. It is therefore imperative for a Union-wide effect of driving disqualifications and to prevent the relative impunity of road traffic offenders that a Union framework is established.

Which authorities can adopt decisions imposing driving disqualifications varies between Member States. Therefore, the imposition of the Union-wide driving disqualification should be established on the basis of national law of the Member State that has issued the driving licence. Under the proposal, Member States will be obliged to provide an auxiliary Union-wide effect, in accordance with their own national legislation, to a driving disqualification that was imposed by another Member State.

The framework should be based on the principle that effects pertaining to the withdrawal, suspension or restriction of a driving licence should to the furthest possible extent be applied in the whole Union, thus establishing Union-wide disqualification. Such a framework enables the EU to reach similar results as if the decisions leading to driving disqualifications were mutually recognized, while also catering the specificities of road transport and ensuring that there is no overlap between the Union-wide effect of driving disqualifications and the instruments used in the field of criminal cooperation.

The scope of this initiative covers those road traffic offences that most contribute to road traffic accidents and fatalities, namely: excessive speeding; drink-driving; driving under the influence of drugs and causing death or serious bodily injury as a result of any road safety related traffic offence.

Speed not only has a direct influence on collision occurrence and the severity of collisions, but speeding is actually by far the most recorded road traffic offence on average<sup>8</sup>. The number of collisions and the severity of those collisions increase exponentially as driving speed increases. Likewise, reducing speed by only a few km/h can significantly reduce the number and severity of collisions<sup>9</sup>.

The share of speeding offences committed by non-resident drivers can differ greatly across Member States. On average, around 18% of all speeding offences are committed by non-resident drivers. This means that there is a material group of drivers who commit serious traffic offences in other Member States but are not (fully) held accountable for them. Speed enforcement aims to deter drivers from exceeding speed limits by penalising those that do. This not only affects the speed of drivers who feel typified by those that actually get

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<sup>7</sup> This interpretation is continuously reiterated in the case-law of the Court of Justice of the European Union as well, see for example: case C-419/10, Hofmann, ECLI:EU:C:2012:240, and case C-260/13, Aykul, ECLI:EU:C:2015:257.

<sup>8</sup> [https://etsc.eu/wp-content/uploads/ETSC\\_PINFLASH42\\_v2TH\\_JC\\_FINAL\\_corrected-060522.pdf](https://etsc.eu/wp-content/uploads/ETSC_PINFLASH42_v2TH_JC_FINAL_corrected-060522.pdf)

<sup>9</sup> Ibid.

sanctioned (specific deterrence), but also those who see or hear that drivers keep being penalised (general deterrence)<sup>10</sup>.

By partially removing the existing impunity of these offenders through allowing Member States to mutually recognize driving disqualifications stemming from speeding, it is expected that their driving speed will lessen, as they will feel the need to comply with speed regulations abroad to the same extent they do in their own Member State. In fact, especially considering that speeding is the most committed road traffic offence, the mutual recognition of driving disqualifications stemming from its commission is expected to have a significant effect on road safety alone, as for example certain stakeholders estimate that 2,100 lives could be saved each year if the average speed dropped by only 1 km/h on all roads across the EU<sup>11</sup>.

The same logic applies to drink driving. The number of drink driving offences is estimated at 1.2 million in 2019 and it is projected to increase to 1.5 million by 2030 and 2.4 million by 2050, drawing on the development of enforcement intensity over the period 2010-2019<sup>12</sup>. A recent study carried out in the context of the DRUID (Driving under the Influence of Drugs, Alcohol and Medicines) project was used to estimate the share of offences in which the tested blood alcohol concentration (BAC) was higher than 0.8<sup>13</sup>. At EU level, some 26% of all alcohol offences were estimated to be severe, with a possible loss of licence as a consequence. In addition, it has been estimated that non-resident drivers commit around 15% of all traffic offences<sup>14</sup>.

Similarly, drugs can affect mental and physiological functions, causing impairment. In fact based on epidemiological studies of road fatalities at national level it is estimated that the share of road fatalities with involvement of drugs (including medicines) is 15-25%<sup>15</sup>. According to another report of the DRUID project<sup>16</sup>, the primary general deterrent factor concerning drug-driving is the perceived risk of detection, however, a survey carried out in 2018 showed that only 14% of the general driving population believe it likely that they are going to be checked for the use of illegal drugs<sup>17</sup>. The visibility of enforcement of offences related to driving while influenced by drugs should therefore be raised. On that consideration, and concerning the link between drugs and alcohol (commonly referred together as “driving under the influence” or “DUI”), it is necessary to include the offence of driving under the influence of drugs in the proposed Directive.

Apart from offences related to speeding and driving under the influence, other conducts that infringe road traffic regulations, can also lead to serious bodily injury or even fatalities, in particular of vulnerable road users such as children, pedestrians, cyclists, and people on

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<sup>10</sup> Ibid.

<sup>11</sup> ETSC (2019), PIN Flash 36, Reducing Speeding in Europe <https://bit.ly/2YZgSzz>

<sup>12</sup> European Commission, Directorate-General for Mobility and Transport, Modijefsky, M., Janse, R., Spit, W., et al., Prevention of driving under the influence of alcohol and drugs: final report, Publications Office of the European Union, 2022, <https://data.europa.eu/doi/10.2832/284545>

<sup>13</sup> European Monitoring Centre for Drugs and Drug Addiction (2012): Driving Under the Influence of Drugs, Alcohol and Medicines in Europe – findings from the DRUID project ([https://www.emcdda.europa.eu/attachements.cfm/att\\_192773\\_EN\\_TDXA12006ENN.pdf](https://www.emcdda.europa.eu/attachements.cfm/att_192773_EN_TDXA12006ENN.pdf))

<sup>14</sup> SWD(2023) 126 final

<sup>15</sup> European Commission, Directorate-General for Mobility and Transport, Modijefsky, M., Janse, R., Spit, W., et al., Prevention of driving under the influence of alcohol and drugs : final report, Publications Office of the European Union, 2022, <https://data.europa.eu/doi/10.2832/284545>

<sup>16</sup> [Microsoft Word - FINAL Deliverable 4\\_2\\_1 DRAFTv10 \(bast.de\)](#)

<sup>17</sup> <https://www.esranet.eu/en/publications/>

(electric) scooters and those whose mobility is reduced. On those considerations, the proposed Directive provides for the extension of the effect of driving disqualifications arising from those conducts to the EU as a whole.

The evaluation of Directive 2006/126/EC<sup>18</sup> concluded that the absence of a specific and efficient EU framework for driving disqualifications poses challenges when it comes to preventing abuses by drivers that commit offences on the territory of one Member State but then can continue to drive in another Member State without bearing consequences of the offences. This was corroborated by the views of 16 out of 21 respondents representing national authorities who saw the fact that residents and non-residents of the Member State where the offence was committed do not face the same consequences regarding driving disqualification, as a generally important problem. When asked about the absence of a Union-wide driving disqualification provided through the means of mutual recognition of decisions, some Member States confirmed that it renders difficult the enforcement of disqualification across borders and hence poses a risk to road safety in the EU, especially in cases where the banning from driving resulted from serious offences (e.g. driving under the influence of alcohol). The targeted survey with national authorities carried out in the context of the evaluation broadly confirmed that there may be a negative impact on road safety and driving licence tourism resulting from the absence of an EU framework for driving disqualifications though its impact would be difficult to assess.

When this Explanatory Memorandum refers to the mutual recognition of driving disqualifications in the context of the preparatory work, it should be read as the policy objective to provide for a Union-wide effect of driving disqualifications, as that was always the original purpose of the initiative.

Moreover, providing for a Union-wide effect of driving disqualification through the means of mutual recognition of decisions, has also been examined in the context of the preparatory work for Directive 2015/413<sup>19</sup>.

In the preparatory work of the revision of Directive 2006/126/EC the large majority of respondents to the Open Public Consultation (OPC) (68%, 5,146 out of 7,532) stated that it is either very important or important that the scope of that Directive is expanded to include rules on the mutual recognition of driving disqualification. Most stakeholders<sup>20</sup> supported during the workshop and the targeted interviews to develop the concept of the mutual recognition of driving disqualifications. However, the Netherlands mentioned some legal concerns<sup>21</sup>, while Germany had some concerns at least in the initial phase.

Overall, many stakeholders were supportive of the Union-wide driving disqualification provided through the means of mutual recognition of decisions, especially when it comes to offenses related to speeding and drink-driving. This was confirmed in the OPC, where about 6,106 (81%) and 4,966 (66%) out of 7,532 respondents, considered a Union-wide driving

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<sup>18</sup> Commission Staff Working Document SWD(2022)0017 final Evaluation of the Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences.

<sup>19</sup> The statistics and the results of survey presented herewith form part of Impact assessment support study for the revision of Directive (EU) 2015/413 facilitating cross-border exchange of information on road-safety-related traffic offences, ECORYS consortium (2022), MOVE/C2/SER/2019-425/SI2.819667 – link to be added.

<sup>20</sup> European federation of road victims, FR, ETSC, HU, SE, SI, BE, CEETAR, and NL.

<sup>21</sup> NL raised concerns regarding the diverse rules and procedures applicable across the EU.

disqualification provided through the means of mutual recognition of decisions resulting from driving under the influence of alcohol or of drugs and from speeding as either very important or important for the revision of Directive 2006/126/EC respectively. In particular, when asked which offences should be provided such an effect in the EU, 87% of respondents to the OPC (6,586 out of 7,532) chose driving under the influence of alcohol and drugs and 46% (3,470 out of 7,532) selected speeding. In the targeted interviews, some stakeholders<sup>22</sup> expressed support for providing a Union-wide driving disqualification through the means of mutual recognition of decisions resulting from speeding, drink-driving. Sweden, Slovenia and Belgium were also supportive, despite acknowledging the difficulties in finding an agreement with other Member States and with the actual implementation.

The absence of a clear EU framework for a Union-wide driving disqualification provided through the means of mutual recognition of decisions poses challenges when it comes to preventing abuse by drivers and impacts road safety. This finding was also corroborated by Member States during the targeted interviews. Reducing both dangerous behaviours by drivers and the number of unlicensed drivers seem to be relevant factors for stakeholders that responded to the OPC. In effect, about 55% (5,063 out of 7,532) and 69% (5,201 out of 7,532) of them, respectively, rated them as either extremely or very important.

In the targeted survey, a large majority of representatives from national authorities identified the fact that residents and non-residents of the Member State where the offence was committed do not face the same consequences regarding driving disqualification in the EU as a generally important problem (16/21). In the targeted survey, respondents from non-governmental organisations agreed that residents and non-residents not facing the same consequences regarding driving disqualification is an important problem in relation to road safety (64%). Similarly, they agreed that residents and non-residents not facing the same consequences regarding penalty/demerit points is an important problem in relation to road safety (64%).

National authorities estimated that, on average, the number of offences resulting in driving disqualifications committed per year is in the range of 25,000 to above 50,000. The number of driving disqualifications for resident drivers (e.g. driving licence is issued in the same Member State that imposes the disqualification) was estimated in the range of 0 to 5,000. The number of driving disqualifications for non-resident drivers (e.g. driving licence is not issued in the Member State that imposes the disqualification) was estimated in the range of 0 to 5,000. More respondents estimated the number of offences resulting in penalty/demerit points committed per year in the range of 0 to 1,000. Slightly more respondents estimated the number of offences resulting in penalty/demerit points for resident drivers (e.g. driving licence is issued in the same Member State that imposes the penalty/demerit point) in the range of 0 to 1,000. The number of offences resulting in penalty/demerit points for drivers resident in another EU Member State (e.g. driving licence is not issued in the Member State that imposes the disqualification) was estimated in the range of 0 to 5,000.

In light of the preparatory work, it is confirmed that establishing a specific and efficient system for the provision of Union-wide effects of driving disqualifications is likely to have a

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<sup>22</sup> the European Transport Safety Council, the European Association of Motorcycle Manufacturers and the Dansk Kørrelærer-Union

significant effect on road safety. Furthermore, this proposal forms part of a package that concerns the revision of two other related directives:

- Directive (EU) 2015/413 facilitating cross-border exchange of information on road-safety-related traffic offences<sup>23</sup> and
- Directive 2006/126/EC on driving licences<sup>24</sup>.

Directive (EU) 2015/413 is one of the cornerstones of the enforcement of certain well-defined road traffic offences, where such offences were committed with a vehicle registered in another Member State than where the offence was committed, which in most cases also indicates commission by a non-resident offender. It was therefore important to align the scope of this proposal to the offences of that initiative as much as possible. Otherwise, enforcement authorities might not have sufficient tools to actually conduct the investigation that would end in a driving disqualification. Moreover, non-resident offenders might not enjoy the same level of procedural safeguards as their resident counterparts, which the revision of that directive aims to better guarantee. During the preparatory works for this proposal, it became clear that, while the applicable thresholds that lead to driving disqualifications differ significantly between Member States, certain road safety related traffic offences trigger driving disqualifications in all or most Member States.

- **Consistency with existing policy provisions in the policy area.**

Providing for a system of Union-wide effect of the driving disqualification of non-resident offenders has continuously been a focal point of the initiative to revise Directive 2006/126/EC<sup>25</sup>.

Article 11(4) of that Directive governs certain elements of driving disqualifications. The revision of Directive 2006/126/EC, carried out in parallel to this initiative for reasons of legal consistency and coherence, will cover the issuance of driving licences to drivers who have been disqualified and the exemptions of the mutual recognition of (the validity of) driving licences when the holder is subject to a disqualification in a Member State other than the one that issued the driving licence. Moreover, it will contain provisions facilitating the enforcement of partial driving disqualifications through the possibility of endorsements.

Proposing a specific legal act to provide a Union-wide effect of driving disqualification through the means of mutual recognition of decisions has also been a recurring aim of the Commission. In 2006, the Commission indicated in a Communication on disqualifications arising from criminal convictions<sup>26</sup> that it was considering to propose a legal act to replace the 1998 Convention concerning driving disqualifications<sup>27</sup>. As regards the mutual recognition of disqualifications in general, the Commission declared as part of that Communication that it favoured a sectoral approach, in sectors where a common basis exists between the Member States (such as driving disqualifications).

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<sup>23</sup> 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, OJ L 68, 13.3.2015, p. 9.

<sup>24</sup> Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences (Recast), OJ L 403, 30.12.2006, p. 18.

<sup>25</sup> Cf. the inception impact assessment of the initiative to revise the driving licence directive: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12978-Revision-of-the-Directive-on-Driving-Licences\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12978-Revision-of-the-Directive-on-Driving-Licences_en)

<sup>26</sup> COM(2006) 73 final.

<sup>27</sup> OJ C 2016, 10.7.1998, p. 1.

- **Consistency with other Union policies**

The proposal is also fully consistent with the main acquis on road safety.

It has no significant bearing on Directive (EU) 2022/2561 of the European Parliament and of the Council<sup>28</sup> and on Regulation (EU) 2019/2144 of the European Parliament and of the Council<sup>29</sup>. It is also consistent with the *EU Road Safety Policy Framework 2021-2030 - Next steps towards "Vision Zero"*<sup>30</sup>.

As mentioned above, Directive (EU) 2015/413 is being revised in parallel to this proposal, for reasons of legal consistency and coherence. In that regard it should be reiterated that Directive (EU) 2015/413 is expected to become the cornerstone of the investigation, and thus indirectly also contribute to the enforcement in particular in cases where the offender has been detected remotely. As the revised Directive (EU) 2015/413 aims to expand the information exchange and mutual assistance between the Member States, an assumption can be made that the number of successfully investigated offences, and as a result also the imposed driving disqualifications, will substantially increase.

Similarly, the revision of Directive (EU) 2015/413 aims to grant a higher level of procedural and fundamental rights protection to the pursued or caught non-resident offenders, regardless of whether the offence is remotely detected or the offender is apprehended before leaving the Member State in which the offence was committed.

The revision of Directive 2006/126/EC and the Union's driving licence framework will also complement the rules laid down by the proposed Directive as mentioned above. Moreover, the revised driving licence Directive will help in the practical enforcement of partial restrictions placed on the driver and reinforce the possibility for the Member State of the offence not to recognize the validity of the driving licence of the offender in the cases where the proposed Directive is not applicable.

In addition, rules on the protection of personal data also apply to the exchange of information related to driving licences, in particular:

- Regulation (EU) 2016/679 of the European Parliament and the Council (General Data Protection Regulation)<sup>31</sup>; and
- Directive (EU) 2016/680 of the European Parliament and of the Council<sup>32</sup>.

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<sup>28</sup> Directive (EU) 2022/2561 of the European Parliament and of the Council of 14 December 2022 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers (codification), OJ L 330, 23.12.2022, p. 46.

<sup>29</sup> Regulation (EU) 2019/2144 of the European Parliament and of the Council of 27 November 2019 on type-approval requirements for motor vehicles and their trailers, and systems, components and separate technical units intended for such vehicles, as regards their general safety and the protection of vehicle occupants and vulnerable road users, OJ L 325, 16.12.2019, p. 1.

<sup>30</sup> SWD (2019) 283 final.

<sup>31</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) (OJ L 119, 4.5.2016, p. 1).

<sup>32</sup> Directive (EU) 2016/680 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 by competent authorities for



The proposal is also consistent with other instruments allowing the mutual recognition of judgements or judicial decisions in criminal matters. It fills a gap with regard to driving disqualifications deriving from judicial decisions in criminal matters. In order to avoid possible overlaps between the proposed Directive and the Justice and Home Affairs acquis of the Union, it is clarified that the proposal is without prejudice to those instruments.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

### **• Legal basis**

The primary objective of the proposal is to improve road safety and to ensure a high level of protection for all road users in the Union, which was also highlighted in the call of the EU Transport Ministers in the Valletta Declaration.

According to the case law of the Court of Justice of the European Union (CJEU), the Union legislator enjoys wide legislative powers as regards the adoption of appropriate common rules to establish a common transport policy<sup>33</sup>. Improving road safety is a prime objective of the Union's transport policy. Measures pursuing that objective may therefore be adopted on the basis of Article 91(1)(c) Treaty on the Functioning of the European Union (TFEU)<sup>34</sup>.

Therefore, the appropriate legal basis for the proposed Directive is Article 91(1)(c) of the TFEU.

### **• Choice of the instrument**

Article 91(1)(c) TFEU gives the EU legislator the possibility to adopt both regulations and directives.

For this proposal, a directive is the most appropriate form of instrument to be used, as to cater to the differences in the applicable rules on the imposition and enforcement of driving disqualifications within Member States.

### **• Subsidiarity (for non-exclusive competence)**

Under Article 5(3) TEU, the Union shall only act if the proposed action cannot be sufficiently achieved by the Member States. Under the current legislative framework, resident drivers who commit even the most reprehensible road traffic offences retain their right to drive in all Member States other than the Member State where the offence was committed, even if that Member State restricts such rights. The only situation where a driving disqualification has Union-wide effect is where the Member State that applies the driving disqualification was the one that issued the driving licence to the offender.

For reasons of road safety, it is of utmost importance that a Union-wide effect be given to driving disqualifications within the European Union. This can only be achieved through an EU legal instrument. The decision to issue a driving licence or to deprive a person of their

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the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, OJ L 119, 4.5.2016, p. 89.

<sup>33</sup> Case C-223/02, *Spain and Finland v Parliament and Council*, ECLI:EU:C:2004:497, paragraph 29 and the case law cited there.

<sup>34</sup> Case C-43/12, *Commission v Parliament and Council*, ECLI:EU:C:2014:298, paragraph 43 and the case law cited there.

right by disposing the validity of that licence forms part of a Member State's sovereignty. As such, the Union-wide effects of a driving disqualification will always be dependent on the actions of the Member State that issued the driving licence, who does not have the necessary information, legal instruments or incentive to act without Union intervention.

- **Proportionality**

The measures of this initiative do not go beyond what is necessary to achieve the objective of improving road safety through giving a Union-wide effect to driving disqualifications resulting from the commission of certain road safety related offences. The Directive provides for the transmission of the driving disqualification to the Member State that issued the driving licence only as regards those major road-safety-related traffic offences, which constitute the main causes of road traffic accidents and fatalities within the EU, namely the offences of drink-driving (driving with a blood alcohol level that surpasses the maximum value allowed by the law) and speeding (exceeding the speed limits in force for the road or type of vehicle concerned), as well as the offence of driving under the influence of drugs. The driving disqualification can also be transmitted if it relates to a traffic offence which has caused death or serious bodily injury.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

In 2012, a legal study<sup>35</sup> was carried out by the Commission as its principal, on the state-of-play of intra-EU disqualifications of three predefined areas, including driving disqualifications. The study analysed not only the relevant EU legal framework, but also the existing multinational and bilateral treaties and conventions. The study, *inter alia*, concluded that a new Directive should be adopted, to regulate the cross-border enforcement of driving disqualifications.

In 2022, the Commission has contracted a consortium composed of the companies Ecorys, Wavestone and Grimaldi to support<sup>36</sup> the Impact Assessment in the revision of Directive (EU) 2015/413. As part of that study, an extensive research was carried out on the regulatory framework and CJEU jurisprudence concerning driving disqualifications. The conclusion of that research also supported the creation of a new legal act to provide a Union-wide effect of driving disqualifications through the means of mutual recognition of such decisions.

As mentioned above, 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 is at present partially governed by Directive 2006/126/EC.

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<sup>35</sup> Vermeulen, Gert & Bondt, Wendy & Ryckman, Charlotte & Persak, Nina. (2012). The disqualifications triad: approximating legislation, executing requests, ensuring equivalence.

<sup>36</sup> Impact assessment support study for the revision of Directive (EU) 2015/413 facilitating cross-border exchange of information on road-safety-related traffic offences, ECORYS consortium (2022), MOVE/C2/SER/2019-425/SI2.819667 – link to be added.

The European Commission has published in 2022 an ex-post evaluation<sup>37</sup> of that Directive. It demonstrated that the combined action of Directive 2006/126/EC and its two predecessors on driving licences resulted in a common safety level for road users within the Union and has facilitated free movement. It also showed that there is scope for further enhancing the level of road safety within the Union as well as the efficiency and proportionality of some of the regulatory requirements.

- **Stakeholder consultations**

In line with the Better Regulation Guidelines<sup>38</sup> during the ex-post evaluation of Directive 2006/126/EC and the impact assessment on the revision of that directive, stakeholder consultations were carried out also with regard to this proposal.

During the preparatory phase of the ex-post evaluation, a stakeholder workshop was conducted on 16 October 2020, for the purpose of gathering evidence, confirming identified findings, seeking feedback on emerging findings and collecting views.

An open public consultation was then held between 28 October 2020 and 20 January 2021, allowing the interested public and stakeholders to express their views on the rules in force.

During the preparatory phase of the impact assessment, interested parties had the possibility to provide feedback on the Inception Impact Assessment (Q2 2021). Subsequently, the following targeted consultation activities were carried out:

- Two rounds of interviews:
  - Exploratory interviews during the inception phase (Q1 and Q2 2022)
  - In-depth interviews to plug information gaps and assess the expected impacts of policy measures (Q2 and Q3 2021).
- Two rounds of surveys:
  - A survey to substantiate the problem analysis (Q2 2022).
  - A survey to assess the impact of policy measures (Q2 and Q3 2022).

Finally, a new open public consultation took place in Q3 2022.

The European Parliament is in favour of a strengthening of the road safety framework notably by introducing an instrument for the mutual recognition of driving disqualifications<sup>39</sup>.

- **Collection and use of expertise**

During the impact assessment phase, an expert workshop on the consequences of road traffic offences and medical fitness (Q2 2022) took place.

During the preparatory phases of both the ex-post evaluation phase and the impact assessment, the committee on driving licences established under Article 9 of Directive

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<sup>37</sup> Commission Staff Working Document – Evaluation of the Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences, SWD/2022/0017 final.

<sup>38</sup> [https://commission.europa.eu/law/law-making-process/planning-and-proposing-law/better-regulation\\_en](https://commission.europa.eu/law/law-making-process/planning-and-proposing-law/better-regulation_en)

<sup>39</sup> European Parliament resolution of 6 October 2021 on the EU Road Safety Policy Framework 2021-2030 – Recommendations on next steps towards ‘Vision Zero’ (2021/2014(INI))

2006/126/EC, composed essentially by Member States experts, was constantly informed and consulted.

- **Impact assessment**

An impact assessment has been carried out<sup>40</sup> on the revision of Directive 2006/126/EC, including elements on driving disqualifications. The impact assessment was approved by written procedure and received a positive opinion without comments by the Regulatory Scrutiny Board on 18 November 2022<sup>41</sup>. Furthermore, the preparatory work on the revision of Directive (EU) 2015/413 has also substantially dealt with the matter of providing a Union-wide effect of driving disqualification through the means of mutual recognition of decisions. The outcome of the research work confirmed that driving disqualification should be included in the revision of Directive 2006/126/EC, especially as it would not fall within the scope of Directive (EU) 2015/413. Nevertheless, while developing the policy options, the Commission has made use of the information gathered during the evaluation and assessment phase for both Directives<sup>42</sup>.

The final report of the support study for the impact assessment for the initiative to revise Directive 2006/126/EC which also covers this proposal, includes a comprehensive description and assessment of the initiative's added value and its links with other policy initiatives. These can be found in Sections 3.3 and 1.3 and 1.5 of that report. A detailed description of the policy options is included in Section 5.2 and 8.1, while a comprehensive analysis of the impacts of all options is presented in Section 6. The summary of examined policy options can be consulted in the Explanatory Memorandum accompanying the proposal on the revision of Directive 2006/126/EC<sup>43</sup>. An EU framework for uniform cross-border enforcement of driving disqualifications was proposed in the Convention on driving disqualifications of 1998 (Council Act of 17 June 1998)<sup>44</sup>, which did not enter into force due to lack of ratifications by Member States (only seven Member States ratified it<sup>45</sup>). For this reason, it was repealed in 2016.<sup>46</sup>

A step towards providing a Union-wide effect of driving disqualifications seems to have been taken with the adoption of Directive 2006/126/EC, where the relevant provisions of the previous Directive on driving licences (Article 8 of Directive 91/439/EEC)<sup>47</sup> were partially amended, in order to mitigate the phenomenon of “driving licence tourism”. However, the wording of the new provision, Article 11(4) of Directive 2006/126/EC, did not provide the

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<sup>40</sup> SWD(2023) 128 final.

<sup>41</sup> RSB/RM/cdd – rsb(2022)7907617

<sup>42</sup> The assessment on establishing an EU-wide regime of mutual recognition of driving disqualifications presented in this Chapter is largely based on the information gathered in the framework of the Impact Assessment support study for the revision of Directive (EU) 2015/413 facilitating cross-border exchange of information on road-safety-related traffic offences – Final Report [to be published].

<sup>43</sup> COM(2023) 127 final

<sup>44</sup> Council Act of 17 June 1998 drawing up the Convention on Driving Disqualifications (98/C 216/01).

<sup>45</sup> BG, CY, IE, RO, SK, ES, and UK.

<sup>46</sup> Regulation (EU) 2016/95 of the European Parliament and of the Council of 20 January 2016 repealing certain acts in the field of police cooperation and judicial cooperation in criminal matters, OJ L 26, 2.2.2016, p. 9.

<sup>47</sup> Council Directive 91/439/EEC of 29 July 1991 on driving licences (OJ L 237, 24.8.1991, p. 1)

necessary clarity. The provision in question, has been interpreted by the CJEU<sup>48</sup> on several occasions, due to doubts stemming from its wording and to the different situations applying for the disqualifications imposed on residents and non-residents. Furthermore, as also stressed by the CJEU<sup>49</sup>, such an obligation is not effective and enforceable until a system for the exchange of information on disqualifications between Member States is implemented, enabling all Member States to actually verify if a disqualification imposed abroad is pending or has been imposed on a driving licence applicant.

As a result of the problems described above, under the current framework non-resident offenders are only disqualified from driving in the country where they have committed an offence but can still drive in all other EU Member States, except when the disqualification is imposed by their Member State of issuance. This is a major issue, if one considers the serious risk on road safety of drivers circulating within the EU who have their driving licence suspended, restricted or withdrawn in one of the Member States for serious and reiterate breaches to road traffic rules.

All the more, outside an express ban to this effect (or when other Member States are not duly informed of a pending ban) the non-resident driver will be able to apply for a new licence in his country of residence, to recover the right to drive everywhere, as the new permit is to be recognised, in principle, even in the country of offence. The same might be done by a driver disqualified in his own country, by changing his residence before applying for a new permit.

The legal basis for an EU-wide exchange of information on driving disqualifications is indeed already enshrined in Directive 2006/126/EC<sup>50</sup> which expressly requires that Member States assist one another in the implementation of its measures and exchange information on the licences they have issued, exchanged, replaced, renewed or revoked, by using the EU driving licence network set up for these purposes (i.e. RESPER). In addition, Directive (EU) 2015/413 could also facilitate enforcement by requiring the Member State in the territory of which the offence was committed to inform the offender about any disqualification that accompany the offence allegedly committed.

### **Assessment of measures and policy options**

The measures under the different policy options have been subject to a quantitative and qualitative assessment of economic, social (road safety) and fundamental rights impacts. The 2025-2050 time horizon has been selected for assessing the impacts, in line with the baseline projections. Regarding fundamental rights, the effects will remain controlled by a strict implementation of rules on data protection, notably in RESPER.

The economic and social impact of the preferred option in relation to providing a Union-wide effect of driving disqualifications is expected to be overall positive and the initiative should raise road safety across Member States. Increasing the likelihood of an efficient execution of a

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<sup>48</sup> See, in particular, Judgement of 20 November 2008, Weber, Case C-1/07, ECLI:EU:C:2008:640; Judgement of 2 December 2010, Scheffler, Case 334-09, ECLI:EU:C:2010:731; Judgement of 26 April 2012, Hofmann, C-419/10, ECLI:EU:C:2012:240, para. 71; Judgement of 23 April 2015, Aykul, C-260/13, ECLI:EU:C:2015:257; Judgement of 21 May 2015, Wittmann, C-339/14, ECLI:EU:C:2015:333.

<sup>49</sup> Case C-419/10, *Hofmann*, ECLI:EU:C:2012:240, paragraph 82.

<sup>50</sup> Article 15, Article 7(5) and, according to case-law, also Article 11(4) of that Directive.

driving disqualification issued in a cross-border context also increases the deterrent effect on committing a road safety crime regardless of Member States borders. The social impact would be overall very positive as victims can be ensured that measures linked to road traffic offences committed by a foreigner will not be left unexecuted.

The goals of the initiative will lead to a limited increase in the operational costs of RESPER. However, this should be more than offset by the benefits from saving human lives due to increased road safety.

Businesses, SMEs and micro-enterprises are not expected to be directly affected by this legislative proposal.

- **Fundamental rights**

Providing an EU-wide effect of driving disqualification measures may interfere with fundamental rights protected by the EU Charter of Fundamental Rights<sup>51</sup> (the Charter) and the European Convention on Human Rights<sup>52</sup> (ECHR).

The decision of the Member State of issuance to provide a Union-wide effect of driving disqualifications will further limit the possibility of the offender to drive a power-driven vehicle in the Union. Depending on his or her personal situation, this may affect the exercise of his professional activity, his family life, and the possibilities to make use of his or her motor vehicles. The proposal may therefore affect several fundamental rights; the right to engage in work or the freedom to conduct a business, the right to family life, the right to property. Moreover, the envisioned procedures might also impact a person's right to a fair trial, his or her right of defence and his or her right to the protection of personal data concerning him or her.

Limitations of an offender's fundamental rights may be made if they are necessary and genuinely meet objectives of general interest recognised by the Union. This is the case here where the objective of general interest recognised by the Union, is the improvement of road safety. The limitations do not go beyond what is necessary to achieve this objective: A driver who has committed such road traffic offenses in a Member State other than where his driving licence was issued, while benefitting from free movement, should face the same consequences when his driving licence is disqualified, as a driver from that Member State where the offense was committed. They should lose their driving licence or right to drive in the whole Union. Otherwise, road safety could only be protected in the Member State of the offense, which would constitute a partial and inefficient outcome.

Moreover, some important safeguards are included in the proposed Directive. The proposal provides for grounds for exemptions, where there are substantial grounds to believe, on the basis of specific and objective evidence, that the execution of the driving disqualification would, in the particular circumstances of the case, entail a breach of a fundamental right set out in the Charter. Another ground for exemption applies where the procedural safeguards of *in absentia* procedures are not respected. It is similar to those that apply for other mutual recognition instruments since the entry into force of Framework Decision 2009/299/JHA

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<sup>51</sup> OJ C 326, 26.10.2012, p. 391

<sup>52</sup> Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11, 14 and 15, 4 November 1950, ETS 5

enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial<sup>53</sup>.

In addition, Member States shall ensure that legal remedies equivalent to those available in a similar domestic case are available in the Member State where the offence was committed and the offender may also appeal against the decision that ensures the Union-wide effect of the driving disqualification, abolishing such effect and restricting the disqualification to that of the Member State of the offence when successful. Moreover, information will need to be provided by the authorities about the possibilities under national law for seeking such legal remedies when these become applicable and in due time to ensure that they can be exercised effectively.

If applied with proportionality and complemented with effective procedural safeguards as described above, the measures in this proposal are compatible with fundamental rights requirements.

#### **4. BUDGETARY IMPLICATIONS**

For transmission and communication between authorities, already existing technical solutions (such as RESPER - the network for the exchange of information related to driving licences) are foreseen.

Some technical modifications would be needed to ensure that RESPER is able to exchange additional elements related to driving disqualifications. It should be noted however, that overall, these costs are likely not to be substantial. Member States are envisioned to cover their own costs that arise from the application of the proposed Directive. The associated costs are related to the additional time spent on investigations and the costs associated to the notification of the foreign offender.

Finally, it is worth noting that although driving disqualifications are often coupled with pecuniary penalties, this proposal purposefully disinclines from its scope such penalties and as such will not contribute in their enforcement.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The proposal imposes a reporting obligation on the Commission towards the European Parliament and the Council, concerning the implementation of the proposed directive, including, in particular, its impact on road safety. The report of the Commission is due five years after the transposition of the proposed directive by the Member States.

- **Detailed explanation of the specific provisions of the proposal**

*Article 1: Objective and subject-matter*

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<sup>53</sup> 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 the absence of the person concerned at the trial (OJ L 81, 27.3.2009, p. 24.)

The proposal aims to ensure a high level of protection for road users in the Union, by laying down rules providing for Union-wide effect of driving disqualifications for major road-safety related offences committed in a Member State other than the one that issued the driving licence of the offender.

#### *Article 2: Definitions*

Article 2 provides definitions of certain key concepts used in the proposal.

These includes definitions of concepts such as ‘driving disqualification’, ‘Member State of the offence’ (where the offence takes place), ‘Member State of issuance’ (which issued the driving licence) and ‘person concerned’.

The definition of ‘driving disqualification’ encompasses any final decision imposing a driving disqualification related to the commission of a road traffic offence that results in any measure of the withdrawal, restriction or suspension of the driving license or right to drive, regardless of whether it qualifies as a safety measure or a penalty or as an administrative or criminal sanction. The concepts of withdrawal, restriction and suspension are also defined. The directive is applicable to a limited number of well-defined ‘major road-safety-related traffic offences’, namely drink-driving, speeding, driving under the influence of drugs, and infringing road traffic regulations and causing death or serious bodily injury as a result. It also defines ‘additional conditions’ as conditions that the person concerned by a driving disqualification must fulfil in order to recover his or her driving licence or right to drive.

For some concepts, such as ‘major road safety related traffic offences’, ‘power-driven vehicle’, ‘driving licence’ and ‘normal residence’, cross-references to definitions in other Union instruments are made.

#### *Article 3: Union-wide effect of driving disqualifications*

It establishes the principle that a driving disqualification issued by a Member State to a person who is not a normal resident in that Member State and who holds a driving license issued by another Member State should have Union-wide effect.

#### *Article 4: Duty to notify a driving disqualification*

The Member State of the offence is required to notify the Member State of issuance of any driving disqualification of a duration of at least one month. The notification should be done by means of a standard certificate, transmitted between the national contact points of the two Member States concerned.

#### *Article 5: Standard certificate and means of transmission*

This provision empowers the Commission to adopt an implementing act to establish the format and content of the standard certificate before the date of transposition of the Directive. The most important elements that the certificate should contain are listed in this provision.

This article also lays down rules on the languages in which the certificate may be transmitted and specifies that the certificate should be transmitted via RESPER.

#### *Article 6: Ensuring the Union-wide effect of driving disqualifications*



The Member State of issuance should take the appropriate measures to ensure that the driving disqualification has Union-wide effect, unless a ground for exemption laid down in Article 8 applies.

In cases where the driving disqualification consists in a withdrawal of the driving licence or right to drive, the Member State of issuance should withdraw the driving licence. The person concerned should regain the driving licence or right to drive in accordance with the rules applicable in that Member State in similar circumstances. That Member State shall also take into account, as far as possible, any part of the conditions that the person concerned has already fulfilled in the Member State of offence in order to recover the driving licence or the right to drive.

In cases where the driving disqualification consists in a suspension or a restriction of the driving licence or right to drive, the measure taken by the Member State of issuance should be limited to ensuring that the Union-wide disqualification has the same duration as that imposed by the Member of offence, irrespective of whether conditions are imposed by that Member State for the person concerned to recover the driving licence or right to drive.

#### *Article 7: Effects of driving disqualifications in the Member State of the offence*

This article clarifies that the Directive and in particular the application of any grounds of exemption laid down in Article 8 by the Member State of issuance does not prevent the execution of the driving disqualification imposed by the Member State of the offence within its territory.

Moreover, it clarifies that when a driving disqualification imposed by that Member State of the offence includes conditions that the person concerned must comply in order to recover the driving licence or right to drive, that Member State can continue to apply the disqualification on its territory until the conditions are complied with.

#### *Article 8: Grounds for exemption*

Article 8 lays down an exhaustive list of grounds of exemptions, on which basis the Member State of issuance must refuse to give Union-wide effect to the disqualification and a list of additional grounds of exemptions on the basis of which it can refuse to give such Union-wide effect.

The list includes such grounds of exemption as incompleteness of the certificate; age limit of the person concerned; immunity or privilege; or the fact that the remaining period of driving disqualification is of less than one month.

Before invoking any grounds of exemption, the Member State of issuance should consult with the Member State of offence.

#### *Article 9: Time-limits*

This Article establishes that the Member State of issuance must take the measure giving Union-wide effect to the driving disqualification not later than 15 days after the receipt of the certificate.

In specific cases where it is not possible for the Member State of issuance to meet the time limit set for the phase of recognition, it must inform and consult the Member State of offence but remains obliged to give Union-wide effect to the driving disqualification, without delay.

#### *Article 10: Consultations between the Member States*

This article provides Member States should consult each other, via appropriate means and without delay, to ensure the efficient application of this Directive.

#### *Article 11: Information to be given by the Member State of issuance*

This Article provides for obligatory communication of information by the Member State of issuance to the Member State of the offence on different aspects and steps in the procedure.

#### *Article 12: Information to be given by the Member State of the offence*

Under this Article, the Member State of the offence must inform the Member State of issuance of circumstances that may affect the original decision imposing the driving disqualification and of the completion of driving disqualification in its territory.

#### *Article 13: Obligation to inform the person concerned*

The Member State of issuance must notify the person concerned a decision or measure taken in relation to the driving disqualification. Specific reference is made to the information to be shared on legal remedies available under the law of the Member of issuance.

#### *Article 14: Legal remedies*

This Article provides that Member States should ensure that adequate legal remedies against decisions taken pursuant to this Directive are in place. It clarifies that the driving disqualification that has been notified by the Member State of the offence should only be challenged in an action brought in the Member State of the offence.

#### *Article 15: National contact points*

Member States must establish national contact points. In accordance with Article 4, these national contact points transmit the certificates. They should also cooperate with the authorities involved in the enforcement of the driving disqualifications.

#### *Article 16: Statistics*

Under this Article, Member States must regularly collect data from the relevant authorities and maintain comprehensive statistics regarding driving disqualifications. The statistics collected are to be sent to the Commission each year. Collecting comprehensive data regarding driving disqualifications is necessary to allow a thorough assessment of the functioning of the mechanism laid down by this Directive.

#### *Article 17: Committee procedure*

This Article establishes the procedure for the adoption of the implementing act referred to in Article 5.

#### *Article 18: Relationship with other legal acts*

This Article establishes that this Directive does not affect the rights and obligations stemming from Union legislation concerning judicial cooperation and the rights of suspects and accused persons.

*Article 19: Transposition*

Member States have to transpose the provisions of the Directive within a given timeframe and have to notify these national measures to the Commission.

*Article 20: Report on the application*

A reporting obligation is established and placed on the Commission as regards the implementation of the proposed directive.

*Article 21: Entry into force and application*

This is a standard provision stipulating that the Directive is to enter into force on the twentieth day following its publication in the Official Journal.

*Article 22: Addressees*

This is a standard provision stipulating that the Directive is addressed to the Member States.

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the Union-wide effect of certain driving disqualifications**

(Text with EEA relevance)

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<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

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<sup>3</sup>, 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.
- (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, and 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, which 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 limited to the

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> SWD(2019)283 final.

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 Union-wide application of driving disqualifications imposed by a Member State other than the one that issued the driving licence of the offender, which result from major road-safety related traffic offences.
- (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 Union-wide effect of driving disqualifications should be pursued regardless of the qualification of the national measures in the Member State of offence as administrative or criminal.
- (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.
- (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<sup>4</sup>, in so far as they are ‘measures to improve transport safety’ within the meaning of that provision<sup>5</sup>.
- (9) Driving disqualifications resulting from major road-safety-related traffic offences can consist in the withdrawal, restriction or suspension of the driving licence or the right to drive of the offender. Where the offence was committed in the Member State that issued the driving licence, it can also consist in their cancellation. Therefore it should be through the application of all these measures by the Member State which issued the driving licence, that the Union-wide effects of driving disqualifications should be achieved.
- (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 ‘major road-safety-related traffic 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 major offences.

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<sup>4</sup> OJ C 202, 7.6.2016.

<sup>5</sup> 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.

- (11) Driving disqualifications imposed by a Member State with respect to a person who is not a normal resident within the meaning of Article 17 of [NEW DIRECTIVE ON DRIVING LICENCES], and 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. Account should be taken, however, of the fact that 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 in accordance with Article 11(2) of [NEW DIRECTIVE ON DRIVING LICENCES].
- (12) The Member State which imposed the driving disqualification (“Member State of the offence”) should notify 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 one month or more on such person, in order to trigger the procedures necessary to ensure the Union-wide effect of the driving disqualification. Such notification should be transmitted 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, namely the authority of the Member State of the offence imposing the driving disqualification, the major road-safety-related traffic offence committed, the resulting driving disqualification, the person concerned, and the procedures followed for the imposition of the disqualification. 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. 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.
- (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 are automatically recognized by all other Member States. Accordingly, the Member State of issuance should be required to ensure that driving disqualifications adopted by other Member States are recognised by all Member States. 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 extend the effect of the driving disqualification to the Union.
- (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 given effect 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 driving licence or the right to drive in accordance with the rules applicable to alike circumstances in the Member State of issuance. As regards suspension or restriction, it should be ensured

that only the duration of such measures is given a Union-wide effect, even where the driving disqualification provides for additional 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.

- (16) In principle, the possibility for Member States to apply driving disqualifications within their territory should not be limited by this Directive. Accordingly, 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 additional conditions set thereunder until the person concerned complies with them.
- (17) However, it is also important to take into account that the evaluation of the compliance with the requirements set under Union law for obtaining a driving licence is a competence of the Member State of issuance. The application of additional conditions in the Member State of issuance should also not result in duplicating the requirements that a concerned person must fulfil to prove that regaining a driving licence or the right to drive will not pose a danger to road safety in the Union. In light of that, where the Member State of issuance has adopted measures to ensure the Union-wide effect of 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 offence.
- (18) The application of measures by the Member State of issuance should serve the purpose of ensuring that a driving disqualification has Union-wide effect and should not require a new assessment of the facts that lead to the disqualification. However, in order to guarantee that the Union-wide effect 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.
- (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 ensure the Union-wide effect of the driving disqualification or apply a ground for exemption within the shortest possible time, and in any case no later than 15 days after it has been notified of the disqualification. This should be without prejudice to situations where exceptional circumstances prevent compliance with that time limit. Even in such exceptional cases, however, the Member State of issuance should act without undue delay, and inform the Member State of 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. The competent national authorities of the Member States should therefore consult each other whenever necessary, via appropriate means. Moreover, in specific well-defined cases, both the Member State of issuance and Member State of 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 granting a Union-wide effect to 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 granting it Union-wide effects, 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 decisions 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, equivalent to those available in similar domestic cases, 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, it should be clarified that the driving disqualification notified in accordance with Article 4(1) can only be challenged in an action brought in the Member State of the offence.
- (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<sup>6</sup> 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<sup>7</sup> and Directive (EU) 2016/680 of the European Parliament and of the Council<sup>8</sup>, 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 giving effect to 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 a national contact point for the purposes of this Directive. They should further ensure that their respective national contact points cooperate with the relevant authorities involved in the enforcement of the driving disqualifications covered by this Directive, in particular to ensure that all necessary information is shared in due time.
- (26) Member States should regularly collect comprehensive statistics on the application of this Directive, and send them to the Commission each year. On the basis of this and other information, the Commission should evaluate the impact of the implementation of this Directive on road safety and submit a report on the results of that evaluation to the European Parliament and to the Council every five years, together, where appropriate, with legislative proposals for its amendment.

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<sup>6</sup> OJ C 202, 7.6.2016, p. 391.

<sup>7</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) (OJ L 119, 4.5.2016, p. 1).

<sup>8</sup> Directive (EU) 2016/680 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 by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).



- (27) This Directive should not affect the rights and obligations stemming from other applicable Union legislation, in particular Council Framework Decision 2008/947/JHA<sup>9</sup> and Council Framework Decision 2005/214/JHA<sup>10</sup>, or the rights of suspects and accused persons as provided for in Directive 2010/64/EU<sup>11</sup>, Directive 2012/13/EU<sup>12</sup>, Directive 2013/48/EU<sup>13</sup>, Directive (EU) 2016/343<sup>14</sup>, Directive (EU) 2016/800<sup>15</sup> and Directive (EU) 2016/1919 of the European Parliament and of the Council<sup>16</sup>.
- (28) Member States should be able to conclude bilateral or multilateral agreements or arrangements with other Member States, in order to supplement and facilitate the system established by this Directive. They should only do so, however, in so far as such agreements or arrangements allow the provisions of this Directive to be extended or enlarged and help simplify or facilitate further the procedures for granting Union-wide effect to driving disqualifications, and therefore insofar as they allow for a higher level of road safety.
- (29) 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. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>17</sup>.
- (30) Since the objectives of this Directive, namely to ensure the Union-wide effect of decisions imposing driving disqualifications which result from major road-safety-related traffic offences, 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<sup>18</sup>. In accordance with the principle of

<sup>9</sup> 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).

<sup>10</sup> 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).

<sup>11</sup> 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).

<sup>12</sup> 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).

<sup>13</sup> 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).

<sup>14</sup> 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).

<sup>15</sup> 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).

<sup>16</sup> 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).

<sup>17</sup> 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

<sup>18</sup> OJ C 202, 7.6.2016, p. 13.

proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

- (31) 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<sup>19</sup> and delivered an opinion on [DD/MM/YYYY],

HAVE ADOPTED THIS DIRECTIVE:

### *Article 1*

#### **Objective and subject-matter**

This Directive aims to ensure a high level of protection for all road users in the Union. For this purpose, it lays down rules providing for a Union-wide effect of driving disqualifications for major road-safety-related traffic offences committed in a Member State other than the one that issued the driving licence of the person concerned.

### *Article 2*

#### **Definitions**

For the purposes of this Directive, the following definitions apply:

- (1) ‘driving disqualification’ means any decision related to the commission of a major road-safety-related traffic offence, which results in the withdrawal, restriction or suspension of the driving licence or the right to drive of a driver of a power-driven vehicle, which is no longer subject to a right of appeal, irrespective of whether it constitutes a primary, secondary or supplementary penalty or a safety measure and irrespective of whether it is qualified as an administrative or criminal measure;
- (2) ‘withdrawal’ means the revocation of the driving licence or the right to drive or of their recognition;
- (3) ‘suspension’ means the temporary limitation of the validity of the driving license or of the right to drive or of their recognition, for a fixed amount of time, or for both a combination of a fixed amount of time and the fulfilment of additional conditions;
- (4) ‘restriction’ means the partial limitation of the validity of the driving license or of the right to drive or of their recognition, either for a fixed period of time, or subject to the fulfilment of additional conditions, or pursuant to a combination of both;
- (5) ‘additional conditions’ means conditions other than the lapse of a fixed period of time that a person concerned by a driving disqualification must comply with in order to recover his or her right to drive or driving licence;
- (6) ‘Member State of the offence’ means the Member State in which a driving disqualification was delivered;

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<sup>19</sup> 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

- (7) 'Member State of issuance' means the Member State that issued the driving licence of the person concerned, and to which a driving disqualification is transmitted in accordance with the provisions of this Directive;
- (8) 'power-driven vehicle' means a power-driven vehicle as defined in Article 2, point (4) of [NEW DIRECTIVE ON DRIVING LICENCES];
- (9) 'driving licence' means a driving licence as defined in Article 2, point (1) of [NEW DIRECTIVE ON DRIVING LICENCES];
- (10) 'person concerned' means the natural person against whom a driving disqualification is issued;
- (11) 'major road-safety-related traffic offence' means:
  - (a) drink-driving as defined in Article 3, point (g), of Directive (EU) 2015/413 of the European Parliament and of the Council<sup>20</sup>;
  - (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 death or serious bodily injury;
- (12) 'normal residence' means normal residence in accordance with Article 17 of [NEW DIRECTIVE ON DRIVING LICENCES].

### *Article 3*

#### **Union-wide effect of driving disqualifications**

Member States shall ensure that a driving disqualification issued by a Member State with respect to a person who does not have its normal residence in that Member State and who holds a driving licence issued by another Member State shall have effect across the entire territory of the Union in accordance with this Directive.

### *Article 4*

#### **Duty to notify a driving disqualification**

1. The Member State of the offence shall notify the Member State of issuance of any driving disqualification imposed for a duration of one month or more on a person who does not have its normal residence in the Member State of the offence and who holds a driving licence issued by the Member State of issuance.
2. The notification referred to in paragraph 1 shall be made by means of a standard certificate as provided for in Article 5 and in accordance with the procedure set out in paragraph 3.
3. The national contact point of the Member State of the offence shall complete, sign and transmit the certificate directly to the national contact point of the Member State

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<sup>20</sup> 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).

of issuance, which shall forward it to the authority competent for ensuring the Union-wide effect of the driving disqualification. The driving licence of the person concerned, when it has been seized, and the original decision imposing the driving disqualification or a certified copy thereof shall also be forwarded to the national contact point of the Member State of issuance by the national contact point of the Member State of the offence. There shall be no obligation for the Member State of the offence to translate the original decision or its certified copy.

## *Article 5*

### **Standard certificate and means of transmission**

1. Before [the date of transposition set out in Article 19], the Commission shall, by way of an implementing act, establish the format and content of the standard certificate for the notification of a driving disqualification. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 17(2).
2. The certificate shall contain the following information:
  - (a) information about the authority that imposed the driving disqualification in the Member State of the offence;
  - (b) the description of the major road-safety-related traffic offence and the facts leading to the imposition of the driving disqualification;
  - (c) the name and address of the person concerned, and the number of the driving licence, and if necessary, of the national identification documents of the person concerned, where available;
  - (d) the applicable legal provisions of the Member State of the offence;
  - (e) the procedures followed and the precise scope and content of the driving disqualification, including, if applicable, the date on which the suspension or the restriction ceases to have effect, and any additional conditions set by the Member States of the offence;
  - (f) 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.
3. The Member State of the offence shall provide the Member State of issuance with a translation of the certificate in an official language of the Member State of issuance or in any other language that the Member State of issuance has accepted in accordance with paragraph 4.
4. Any Member State may, at any time, state in a declaration notified to the Commission that it will accept translations of certificates in one or more official languages of the Union other than the official language or languages of that Member State. Such declaration can be withdrawn at any time. The Commission shall make the declarations and any withdrawals thereof available to all Member States.
5. The national contact point of the Member State of the offence shall transmit the certificate to the national contact point of the Member State of issuance through the

EU driving licence network referred to in Article 19(1) of [NEW DIRECTIVE ON DRIVING LICENCES] ('RESPER').

## *Article 6*

### **Ensuring the Union-wide effect of driving disqualifications**

1. Upon the notification of a driving disqualification in accordance with Article 4(1) and unless a ground for exemption laid down in Article 8 applies, the Member State of issuance shall take the appropriate measures to ensure that the driving disqualification has Union-wide effect.
2. Where the driving disqualification consists in a withdrawal, the measures taken by the Member State of issuance shall comply with the following conditions:
  - (a) the Member State of issuance shall withdraw the driving licence or the right to drive of the person concerned;
  - (b) the person concerned may recover the driving licence or the right to drive in accordance with the national rules of the Member State of issuance;
  - (c) the Member State of issuance shall take into account as far as possible any part of the additional conditions with which the person concerned shall comply in order to recover the right to drive that have been already fulfilled in the Member State of the offence.
3. 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 or the right to drive of the person concerned until the date on which the suspension or the restriction imposed and notified by the Member State of the offence ceases to have effects;
  - (b) where the suspension or the restriction 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 additional 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 or duration.
4. Without prejudice to the ground for exemption laid down in Article 8(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 5.

## *Article 7*

### **Effects of driving disqualifications in the Member State of the offence**

1. This Directive shall not prevent the Member State of the offence from executing the driving disqualification within its territory and in accordance with its national rules.

2. Where a driving disqualification containing additional conditions has been notified to the Member State of issuance in accordance with Article 4(1), the Member State of the offence may continue to apply such driving disqualification within its territory until the person concerned complies with those conditions.
3. However, additional conditions attached to a driving disqualification notified in accordance with Article 4(1) 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.

## *Article 8*

### **Grounds for exemption**

1. The Member State of issuance shall not take the measures referred to in Article 6(1) where:
  - (a) the certificate referred to in Article 5 is incomplete or manifestly incorrect and the missing or the correct information has not been provided in accordance with paragraph 3, of this Article;
  - (b) the driving disqualification has already been fully executed in the Member State of the offence;
  - (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) at the moment of adopting the measures, referred to in Article 6(3), the remaining period of the suspension or of the restriction to be served pursuant to the driving disqualification is less than one month;
  - (f) judicial proceedings took place and according to the certificate the person concerned did not appear in person at the trial that resulted in the adoption of the driving disqualification, unless the certificate states that, in accordance with further procedural requirements defined in the law of the Member State of the offence, either of the following circumstances have occurred:
    - (i) the person concerned was summoned in person in due time and was thereby informed of the scheduled date and place of the trial that resulted in the driving disqualification, or actually received, by other means, official information of the scheduled date and place of that trial in such a manner that it was established unequivocally that that person was aware of the scheduled trial, and was informed in due time that such a driving disqualification could be handed down if that person did not appear at the trial;
    - (ii) being aware of the scheduled trial, the person concerned had given a mandate to a lawyer, who was either appointed by the person concerned or by the State, to defend that person at the trial and was actually defended by that lawyer at the trial; or
    - (iii) after having been served with the driving disqualification and having been expressly informed of the right to a retrial or an appeal, in which the person concerned would have the right to participate and which would allow a re-

examination of the merits of the case including an examination of fresh evidence, and which could lead to the original driving disqualification being reversed, that person expressly stated that he or she did not contest the driving disqualification, or did not request a retrial or appeal within the applicable time limits;

- (g) in exceptional situations, there are substantial grounds to believe, on the basis of specific and objective evidence, that the execution of the driving disqualification would, in the particular circumstances of the case, entail a breach of a fundamental right as set out in the Charter.
2. The Member State of issuance may decide to apply also the following grounds of exemption:
- (a) the driving disqualification relates to a major road-safety-related traffic offence that, on the basis of the information notified under Article 4(1), 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 by less than 50 km/h;
  - (c) under the law of the Member State of issuance, the person concerned cannot, due to his or her age, be held liable for the major road-safety-related traffic offence in respect of which the driving disqualification was issued.
3. Whenever the Member State of issuance intends to apply in a specific case a ground for exemption pursuant to paragraph 1 or 2, it shall inform without delay the Member State of the offence and, where applicable, 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.

## *Article 9*

### **Time-limits**

1. The Member State of issuance shall take the measures referred to in Article 6 (1) or adopt the decision that a ground of exemption pursuant to Article 8 applies without delay and, without prejudice to paragraph 3, no later than 15 days after it received the certificate in accordance with Article 5(1).
2. The national contact point of the Member State of issuance shall communicate without delay the measures taken under Article 6(1) or the decision that a ground of exemption applies pursuant to Article 8 to the national contact point of the Member State of the offence through RESPER.
3. Where it is not possible, in a specific case, to meet the time-limit set out in paragraph 1, the national contact point of the Member State of issuance shall inform the

national contact point of the Member State of the offence without delay by any means, giving the reasons for which it was not possible to meet that time-limit.

The expiry of the time-limit set in paragraph 1 shall not relieve the Member State of issuance of its obligation to take the measures referred to in Article 6(1) without delay.

#### *Article 10*

##### **Consultations between the Member States**

Where necessary, Member States shall consult each other, via appropriate means and without delay, to ensure the effective application of this Directive.

#### *Article 11*

##### **Information to be given by the Member State of issuance**

The national contact point of the Member State of issuance shall without delay inform the national contact point of the Member State the offence:

- (a) of the reception of the notification of the driving disqualification, in accordance with Article 4(1);
- (b) of the measures taken under Article 6, once they have become legally binding;
- (c) of any decision that a ground of exemption pursuant to Article 8 applies together with the reasons for the decision;
- (d) of any measure suspending or terminating the Union-wide effect of the driving disqualification and the underlying reasons, including on account of the successful challenge by the person concerned.

#### *Article 12*

##### **Information to be given by the Member State of the offence**

The national contact point of the Member State of the offence shall without delay inform the national contact point of the Member State issuance:

- (a) any circumstance that affects the decision that imposed the driving disqualification;
- (b) of the execution of the driving disqualification in the Member State of the offence.

#### *Article 13*

##### **Obligation to inform the person concerned**

1. Following both the reception of the notification under Article 4(1) and the adoption of measures under Article 6(1), 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) when the information is given following the reception of the notification under Article 4(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) when the information is given following the adoption of measures taken under Article 6(1):
    - (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.

#### *Article 14*

##### **Legal remedies**

1. Member States shall ensure adequate legal remedies against decisions or measures taken pursuant to this Directive, equivalent to those available in similar domestic cases. 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.
2. A driving disqualification notified under Article 4(1) may be challenged only in an action brought in the Member State of the offence.
3. 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 this Directive.

#### *Article 15*

##### **National contact points**

1. By [date of transposition of this Directive], each Member State shall designate a national contact point for the purposes of this Directive.
2. 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 major road-safety-related traffic offences, in particular in order to ensure that all necessary information is shared in due time, and that the time-limits laid down in Article 9 are complied with.
3. Member States shall inform the Commission of the national contact points designated for the purposes of this Directive. The Commission shall make the information received under this Article available to all Member States on its website.

## *Article 16*

### **Statistics**

Member States shall regularly collect comprehensive statistics on the application of this Directive and shall send them to the Commission each year. Those statistics shall include:

- (a) the number of notifications made under Article 4(1), separated by Member State addressed;
- (b) the number of times a ground for exemption was invoked, including the grounds for exemption applied, separated by notifying Member State;
- (c) the time needed to transmit information on the decision on a ground of exemption;
- (d) the number of legal remedies that have been lodged against measures taken under Article 6(1).

## *Article 17*

### **Committee procedure**

1. The Commission shall be assisted by the committee on driving licences established by Article 22 of [NEW DIRECTIVE ON DRIVING LICENCES]. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.

Where the committee delivers no opinion, the Commission shall not adopt the implementing act and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.

## *Article 18*

### **Relationship with other legal acts**

1. This Directive shall not affect the rights and obligations stemming from the following legal acts:
  - (a) Council Framework Decision 2008/947/JHA;
  - (b) Council Framework Decision 2005/214/JHA;
  - (c) the rights of suspects and accused persons as provided for in Directive 2010/64/EU, Directive 2012/13/EU, Directive 2013/48/EU, Directive (EU) 2016/343, Directive (EU) 2016/800 and Directive (EU) 2016/1919 of the European Parliament and of the Council.
2. Member States may conclude bilateral or multilateral agreements or arrangements with other Member States after [DD/MM/YYYY], in so far as such agreements or arrangements allow the provisions of this Directive to be extended and help to

simplify or facilitate further the procedures for the enforcement of driving disqualifications imposed for the commission of offences in a Member State other than the one that issued the driving licence of the person concerned.

#### *Article 19*

#### **Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [DD/MM/YYYY]. 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 20*

#### **Report on the application**

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, including its impact on road safety. The report shall be accompanied, if necessary, by proposals for amendments to this Directive.

#### *Article 21*

#### **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 22*

#### **Addressees**

This Directive is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*