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

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In view of the meeting of the Land Transport Working Party on 24 May 2023, delegations will find, in annex, a compromise text prepared by the Presidency

2023/0055 (COD)

Proposal for a

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

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

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:

*[recitals not reproduced]*

HAVE ADOPTED THIS DIRECTIVE:

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

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

## *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;
- (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>3</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;

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<sup>3</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).

- (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~~ **two** months 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 **digital** standard certificate as provided for in Article 5 and in accordance with the procedure set out in paragraph 3.

3. The national contact point(s) of the Member State of the offence shall complete, sign and transmit the certificate directly to the national contact point(s) of the Member State of issuance, which shall forward it to ~~the~~ **its competent** authority ~~competent for~~ ensuring the Union-wide effect of the driving disqualification. The driving licence of the person concerned, ~~when~~ **if** 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(s) of the Member State of issuance by the national contact point(s) 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 **structured** information:
  - (a) ~~information about~~ **name of** the authority that imposed the driving disqualification in the Member State of the offence;
  - (b) ~~the description~~ **type** of the major road-safety-related traffic offence and **description of** the facts leading to the imposition of the driving disqualification, **including the applicable legal provisions and the type of decision;**

**(bb) where applicable, the measurement method used to establish the offence and the results of the measurement at the time of the offence;**

- (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) whether the person concerned was notified of the driving disqualification in the Member State of offence, whether the person concerned appealed the decision in the Member State of offence and whether the person concerned was represented in the procedure;**
- ~~(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 the disqualification process commenced**, 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~~ **may** 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(s) of the Member State of the offence shall transmit the certificate to the national contact point(s) 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'). **The national contact point(s) of the Member State of the offence may list the information defined under paragraph 2 relating to several driving disqualification cases concerning the same Member State of issuance into a single certificate, with the exception of the cases requiring more attention because of their legal or factual complexity.**

#### 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~~**If** the driving disqualification ~~consists in~~ **entails** a withdrawal **in the Member State of offence**, 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, **notwithstanding the right of the Member State of offence not to recognize the right to drive on its territory for the duration of the disqualification period.**
  - (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 **or the maximum duration imposed by the Member State of issuance for the same offence;**
  - (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.
  - (d) 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.**
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~~ **one month** 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, **in a structured way**, the national contact point of the Member State **of** 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.
- (c) when the driving disqualification is expired, the information on the procedure to follow for re-obtaining the driving licence.**

## *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~~ **one or more** national contact point(s) 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 ~~every two years~~ **every year**. **The data and statistics shall be gathered for 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 16a*

**At least six months 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 referred to in Article 5 and the format for the information provided under Articles 11 and 12. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 17(2).**

## *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 **within one year of the entry into force of 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*

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