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'A' ITEM NOTE

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Subject:	Proposal for a Directive on the Union-wide effect of certain driving disqualifications – Progress Report

I. INTRODUCTION

1. The Commission adopted the above-mentioned proposal on 1 March 2023 as part of the road safety package. It aims to establish a Union framework for a Union-wide effect of certain driving disqualifications to prevent the relative impunity of non-resident road traffic serious offenders.

II. WORK AT OTHER INSTITUTIONS

2. The European Parliament designated the Committee on Transport and Tourism (TRAN) as the responsible committee on this proposal and appointed Mr. Petar Vitanov (BG, S&D) as the Rapporteur during the European Parliament's 9th term. The European Parliament adopted its first reading position on 6 February 2024.

3. The European Economic and Social Committee adopted an opinion on 14 June 2023. The Committee of the Regions decided not to issue an opinion. The European Data Protection Supervisor issued an opinion on 14 June 2023.
4. The Portuguese Parliament and the Czech Senate adopted resolutions, respectively, on 17 May 2023 and 31 May 2023.

III. WORK WITHIN THE COUNCIL AND ITS PREPARATORY BODIES

5. The Commission presented the road safety package comprehensively in the meeting of the Working Party on Land Transport on 2 March 2023. The impact assessment was then presented and discussed on 8 March 2023. The article-by-article examination in the working group started on 26 April 2023. The Swedish Presidency presented a first compromise proposal¹ at the meeting of the Working Party on 24 May 2023.
6. The Spanish Presidency sent a questionnaire to delegations on 3 July 2023 with the aim of getting an overview of the systems in place in Member States and the main implementation issues to be anticipated².

IV. WORK TOWARDS A COMPROMISE

7. Following the request from several delegations, the Council Legal Service issued an opinion on the legal basis of the Commission proposal and the concept of Union-wide effect on 28 February 2024.³ The Council Legal Service confirmed that Article 91(1), point (c) of the Treaty on the Functioning of the European Union is the correct legal basis for the proposal for a Driving Disqualification Directive. However, the Council Legal Service questioned the validity of the concept of Union-wide effect since a Member State cannot ensure that its national decisions on driving disqualifications are implemented by the other Member for a Driving Disqualification Directive.

¹ ST 9086/23.

² WK 8793/23.

³ ST 7060/24.

8. The Council Legal Service suggested, as one alternative to the Union-wide effect, to build on the mutual recognition mechanisms of the Directive on driving licences in order to achieve the same objectives. On 30 April 2024, the Belgian Presidency proposed a new compromise reflecting that option⁴. Under the new compromise proposal, driving disqualification rules would be incorporated into the new Directive on driving licences⁵ and thus the scope of this Directive's mutual recognition framework would be extended.
9. From a procedural point of view, it is assumed that the new Directive on driving licences will be adopted by the co-legislator first, under the 2023/0053 (COD) ordinary legislative procedure. The two legislative files should be treated separately, *inter alia*, considering that, in line with its right of initiative, this was also the Commission's intention. It should also be noted that, under the chosen approach, there is no dependence of the legislative process for the proposal for a Driving Disqualification Directive on the one conducted for the new Directive on driving licences.⁶
10. Following the discussion in the Working Party on Land Transport on 15 May 2024, the Belgian Presidency revised the compromise proposal based on comments by delegations; that compromise was discussed at the Working Party on Land Transport of 28 May 2024.

V. CONCLUSIONS

11. A majority of Member States welcome the approach suggested by the Council Legal Service and how the Belgian Presidency embedded it into the compromise proposal, supporting that the new rules be introduced by an amendment of the new Directive on driving licences.

⁴ ST 9086/23 REV1 CO1.

⁵ ST 16345/23 (Council general approach) was used as the reference for the text of the future Directive on driving licences. On substance, should some aspects of the new Directive on the driving licences, that are relevant for the driving disqualification directive, change compared to the Council General Approach on the new Directive on driving licences, the Council's mandate for negotiation on the Driving Disqualification Directive could be further adjusted in the context of the trilogue negotiations.

⁶ A recent example of parallel amendments of the same legislation is Directive (EU) 2023/959 of 10 May 2023 amending Directive 2003/87/EC and Decision (EU) 2015/1814 negotiated in parallel with Directive (EU) 2023/958 of 10 May 2023 amending Directive 2003/87/EC.

12. For reaching support by the Member States, additional technical and conceptual work on the compromise will be necessary, notably as regards the following points:
- According to the Commission proposal, the Member State of issuance is under the obligation to give effect to the driving disqualification decided by the State of offence in accordance with its own legislation, except if a ground for exemption is applicable and serves as basis to refuse the implementation of this driving disqualification. However, the Member State of issuance is not obliged to harmonise its legislation with the Member State of offence. In this respect, one delegation suggested that the notification by the Member State of offence should take the form of an application for disqualification in the State of issuance, to be assessed as such by the Member State of issuance before being or not implemented. Moreover, Member States still have questions on the distinction between the different **types of disqualification** and their correspondence under their national system and on how, in practice, they can implement the Directive when certain types of disqualification defined in the Commission proposal do not exist in their **national system** (for instance, in some Member States a licence cannot be withdrawn but only suspended).
 - Several Member States insist that the scope of the Directive on driving disqualifications includes **penalty point systems**. In several Member States, certain offences do not lead directly to a driving disqualification (e.g. speeding) and a driving disqualification is decided only when a certain threshold of penalty points is reached. Moreover, some Member States would like to include in the scope of the Directive on driving disqualifications additional **types of offences**, such as the driver's refusal to be subject to alcohol or drug tests or driving without a licence. In addition, some delegations consider that the mutual recognition mechanism should apply both to the driving licence and the **right to drive**. While extending the scope of the Directive on driving disqualifications would contribute to increasing road safety, **consistency with the Directive on driving licences** should be ensured and practical aspects of the implementation should be borne in mind.

- Some delegations underline a contradiction between the new Directive on driving licences and the current compromise on the Directive on driving disqualifications regarding the **issuance of a new licence**. Under the Directive on driving licences, only the State of normal residence can re-issue a driving licence whereas under the current compromise for a Directive on driving disqualifications the State of issuance can issue a new licence as well. A solution to overcome such a contradiction would be to open the possibility for the driver to demonstrate its normal residence to the State of offence. However, such a solution would likely bring additional administrative burden and create risks of forum shopping for driving licences.
- The Presidency has tried to facilitate the implementation of the Directive by reducing the amount and frequency of statistics to be reported to the Commission and by extending the transposition period. The Presidency has also tried to reduce unnecessary administrative burden, notably by excluding from the notification requirement disqualifications with a duration of less than three months, by limiting information contained in the notification to the minimum necessary, by using RESPER codes and structured information to the maximum extent, and by reducing the amount of information to be transmitted by the Member State of issuance to the Member State of offence in case the Member State of issuance decides to use a ground for exemption. However, some delegations are concerned that some important elements of information could be lacking. On the other hand, some other delegations request further simplification, such as excluding from notification measures for which a short period of suspension or restriction would remain to be observed, or simplification of the language regime.

13. Against this background and following the Committee of Permanent Representatives meeting on 12 June, the Council (Transport, Telecommunications and Energy) is invited to take note of this Presidency progress report as an ‘A’ item in its forthcoming meeting.