



1998 Convention on Driving Disqualifications

Screening Serbia

Analytical examination of the acquis

Chapter 24 – Justice, freedom and Security

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Purpose of the instrument

to prevent drivers disqualified from driving in a Member State (MS) of the European Union, other than their own, from escaping the consequences when they return home





Definition and scope

1. 'Driving disqualification' means (Art 1):
 - any **measure related to the commission of a road traffic offence** which results in **withdrawal or suspension of the right to drive** of a driver of a motor vehicle and which is no longer subject to a right of appeal
2. Disqualifications are a **category of sanctions** (primary, secondary or supplementary penalty)
3. May be taken either by a judicial authority or by an administrative authority
4. Disqualifications as a result of accumulating penalty points ("totting up") are not included in the Convention

Enforcement

MS of offence **notifies** the MS of residence, without delay, of any driving disqualification imposed for an offence arising from (see Annex) :

1. Reckless or dangerous driving;
2. Hit and run driving;
3. Driving whilst under the influence of alcohol/drugs (and refusal to submit to a test);
4. Speeding;
5. Driving whilst disqualified;
6. Other road traffic offences resulting in a disqualification period of 6 months or more.



Limited scope of the Convention

- does not operate according to the principle of Mutual Recognition = does not provide for direct recognition of driving bans imposed in one MS by all the other MS;
- enables the MS of residence to choose to execute directly OR convert the foreign decision into a domestic judicial or administrative order (Art 4)

Mandatory refusal to enforce the decision on disqualification

The MS of residence **must refuse to give effect** to the driving ban where (Art 6) :

- the decision has already been fully enforced in the MS of the offence;
- the offender has already had a driving disqualification imposed on him in the MS of residence for the same acts;
- the offender would have benefited from a general pardon or amnesty in the MS of residence;
- the period of limitation for the measure would have expired under its own legislation;
- the offender has not had an adequate opportunity to defend himself



Optional refusal to enforce the decision on disqualification

The MS of residence **may refuse to give effect** to the driving ban where (Art 6) :

- the conduct for which the driving disqualification has been imposed in the MS of the offence is not an offence in the MS of residence;
- the remaining period of disqualification which could be enforced in the MS of residence is less than one month;
- driving disqualification is not a measure available under the legislation of the MS of residence for the acts giving rise to the driving disqualification





Future of the instrument

- the Convention enters into force only when all signatory Member States have adopted it
- so far only 7 MS acceded to the Convention (BG, CY, ES, UK, IE, RO, SK) but applies already between UK and IE: the Convention allows Member States **to apply its terms early**, UK and Ireland have exercised this option and enabled direct **mutual recognition** of driving disqualifications between their jurisdictions
- on 24 June 1999 the Council approved an **explanatory report** on the Convention relating to driving disqualifications





Thank you for your attention

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