



## EUROPEAN COMMISSION

Cabinet of Commissioner Adina Vălean  
Head of Cabinet

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**Subject: Reply to letter ref.: OL OTH 115/2023**

Dear Ms Mahler, dear Mr Quinn,

With reference to your Joint Communication of 25 September 2023, a copy of which has been submitted to Commissioner Adina Vălean, I hereby take the opportunity to address your concerns relating to the Commission's proposal for the revision of the Driving Licence Directive (COM (2023) 127 final) on her behalf.

The promotion of the rights of older persons is of utmost importance to the Commission, as is the promotion of the enjoyment of all human rights of persons with disabilities. Moreover, and as you have also recalled, since the Treaty of Lisbon <sup>(1)</sup> has come into force, the Charter of Fundamental Rights of the European Union <sup>(2)</sup>, which explicitly recognises the rights of the elderly and of persons with disabilities <sup>(3)</sup>, constitutes part of the European Union's primary law and as such the Union's Institutions can formulate and implement policies and legislation only in line with it.

In your letter you identify the proposed obligation to be placed on Member States to *“reduce the periods of administrative validity (...) to five years or less for driving licences of holders residing on their territory having reached the age of 70, in order to apply an increased frequency of medical checks or other specific measures, including refresher courses <sup>(4)</sup>”* as possibly discriminatory, in case it lacks supporting evidence. Allow me to draw your attention to the background which the Commission relied on when preparing the legislative proposal in question, complemented by further relevant documentation.

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<sup>(1)</sup> OJ C 306, 17.12.2007, p. 1

<sup>(2)</sup> OJ C 202, 7.6.2016, p. 389

<sup>(3)</sup> Please see Articles 25 and 26 of the Charter respectively.

<sup>(4)</sup> Sixth subparagraph of Article 10(2) of the Commission's proposal.

While road safety in the EU has improved quite significantly over the last 20 years, the slowdown in the reduction of the number of road deaths that set in around 2014, prompted the transport ministers of the EU 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 EU's road safety legal framework to ensure that even less people die in our roads. As part of this work the Commission has decided to base Union policy making on the so-called "safe system approach", which comprises five pillars: safe roads and roadsides, safe speeds, safe road users, safe vehicles, and fast and effective post-crash care. Let me also recall that the introduction of the safe system approach was also endorsed by the UN Global Plan for the Decade of Action <sup>(6)</sup>.

In line with this approach, the Commission's proposal contains various measures designed to ensure that driving licence holders are fit to drive, regardless of their age. This should ultimately improve road safety, which in turn benefits all road users, including older ones. It is crucial that all road users can be sure that all drivers are fit to drive, anywhere in the EU.

As you have also indicated in your letter, when it comes to the abovementioned measure the Commission is in fact proposing a more proportionate system than the current one, which allows for such measure to be taken by the Member States from the age of 50 <sup>(7)</sup>, therefore, in fact raising the age limit beyond which more frequent medical checks or other measures may be required. Nevertheless, while the Commission saw the unequivocal need for the age limit to be raised, justification to propose that Member States act to better ensure fitness to drive of drivers in their 70's or above is also available.

Indeed, data at our disposal show that the share of the age group 65+ in all car driver and passenger fatalities has increased from 16.4% in 2009 to 23.5% in 2016. This was not only the strongest increase in any age group, but it was also above the increase of the share of that age group in total population <sup>(8)</sup>. Moreover, it appears that drivers aged 65+ have in most cases caused the accidents they are involved in <sup>(9)</sup>.

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<sup>(5)</sup> [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> [Decade of Action - United Nations Sustainable Development](#)

<sup>(7)</sup> Please see the 6<sup>th</sup> subparagraph of Article 7(3) of Directive 2006/126/EC (OJ L 403, 30.12.2006, p. 18).

<sup>(8)</sup> See Table 32 of the ERSO Report 2011 (<https://road-safety.transport.ec.europa.eu/system/files/2021-07/dacota-3.5-asr-2011.pdf>) and Table 32 of the ERSO Report 2018 (<https://road-safety.transport.ec.europa.eu/system/files/2021-07/asr2018.pdf>). The share of people aged 65 or more in the total population of the 27 Member States increased from 17.4 to 19.3% between 2009 and 2016.

<sup>(9)</sup> See for instance the press release of the German Statistical Office of 2 March 2023: [https://www.destatis.de/DE/Presse/Pressemitteilungen/2023/03/PD23\\_N013\\_46241.html#:~:text=Im%20Jahr%202021%20waren%2066,Deutschland%20mindestens%2065%20Jahre%20alt](https://www.destatis.de/DE/Presse/Pressemitteilungen/2023/03/PD23_N013_46241.html#:~:text=Im%20Jahr%202021%20waren%2066,Deutschland%20mindestens%2065%20Jahre%20alt)

In the Netherlands, data from the Ministry of Infrastructure and Water Management show that the group of drivers aged 75 and above had the second and third highest crash rate for fatal and non-fatal injury crashes respectively, only superseded by novice drivers (18-19) and the age group 20-24<sup>(10)</sup>. Similar data exist for example in Austria: “According to a recent analysis by Statistics Austria, the group of 15 to 24-year-olds is quantitatively the largest group among those responsible for accidents at 21 percent. However, the age of those responsible for single-vehicle accidents is moving in the direction of older groups. In 2021, 15 percent of those causing accidents were over 65 years old, while this figure was 17 percent in 2022.”<sup>(11)</sup>

The Commission proposal foresees proportionate measures for both ends of the age spectrum: For novice, mostly young, drivers, it foresees the EU-wide introduction of a probationary period with stricter rules in particular in case of driving under the influence of alcohol (“zero tolerance”). It also foresees the introduction of an EU-wide accompanied driving scheme where novice drivers aged 17 would be allowed to drive under the supervision of experienced drivers and thus gain valuable driving experience. For older drivers it foresees the referenced obligation on Member States to shorten the validity of the driving licence, in order to allow for an increased frequency of medical checks or other specific measures, including refresher courses.

In the same vein, while acknowledging the concern for the effects of digitalisation, I would like to recall that under the so-called “digital by default principle”<sup>(12)</sup> the EU merely seeks to reduce the administrative burden and costs on both citizens<sup>(13)</sup> and Member States by making digital delivery of services the default choice for public administrations. Administrative procedures related to the driving licences of EU citizens also fall within the ambit of this principle and, as your letter has also acknowledged, citizens of any age may request to receive and retain a physical driving licence<sup>(14)</sup>.

This solution would not only support the principle of “freedom of choice” as laid down in the European Declaration on Digital Rights and Principles for the Digital Decade<sup>(15)</sup> but allow the fulfilling of commitments relating to “actively promoting [the] vision of the digital transformation” and “facilitating and supporting seamless, secure and interoperable access across the EU to digital public services designed to meet people’s needs in an effective manner”. Moreover, as the Declaration clearly highlights, digital transformation could, and indeed should, include all people regardless of their age or disabilities.

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<sup>(10)</sup> European Road Safety Observatory (ERSO): Older Drivers, September 2015, p. 10. ([https://road-safety.transport.ec.europa.eu/system/files/2021-07/ersosynthesis2015-olderdrivers25\\_en.pdf](https://road-safety.transport.ec.europa.eu/system/files/2021-07/ersosynthesis2015-olderdrivers25_en.pdf))

<sup>(11)</sup> [Fahrtauglichkeitscheck für Ältere: Aufregung über EU-Vorschlag - news.ORF.at](https://www.orf.at/news/2022/07/15/fahrttauglichkeitscheck-fuer-aeltere-aufregung-ueber-eu-vorschlag/)

<sup>(12)</sup> COM(2016) 179 final

<sup>(13)</sup> As indicated in the Commission’s Impact Assessment ([SWD\(2023\) 128 final](#), p. 89) citizens are expected to save around 1.7 billion euros in hassle costs through the introduction of the mobile driving licence (expressed as present value over 2025-2050).

<sup>(14)</sup> Please see Article 3(3) and 3(5) of the Commission’s proposal.

<sup>(15)</sup> European Declaration on Digital Rights and Principles for the Digital Decade, OJ C 23, 23.1.2023, p. 1.

Lastly your letter takes issue with the terminology in Annex III, “ageing-linked behavioural impairment”, when it asks for a clear definition on what such conditions may entail in order to not deny the diversity and heterogeneity of older people. I would like to point out however, that it is exactly the fact that older people are a diverse and heterogenous group that makes a more encompassing definition of the impairments that may affect them necessary.

As a point of reference, the European Road Safety Observatory report “Older Drivers 2015”<sup>(16)</sup> outlined age-related functional limitations and their relevance to road safety. As drivers age, information processing capacities generally decline<sup>(17)</sup>, and the most important functional changes that accompany normal ageing relate to visual and perceptual abilities, cognitive abilities, and certain physical abilities. The World Health Organisation Guidelines on risk reduction of cognitive decline and dementia<sup>(18)</sup> could also be recalled in as much as they refer to cognitive decline as “*the physiological decay of brain functions such as memory, attention or learning ability, for example, which is associated with the normal ageing process. It differs from cognitive impairment in that anyone who ages develops some kind of cognitive decline, although at different degrees. Cognitive impairment, instead, is normally the result of a pathological event: injury, disease, or increased levels of cognitive decline.*”<sup>(19)</sup>

The Commission agrees and emphasises that old age is not a synonym of disability, nevertheless it is a part of life and it needs to be taken into consideration where it is able to impair road safety. Moreover, the original version of the provision in question (in Annex III) was adopted as part of the second driver’s licence directive<sup>(20)</sup> in 1991 and as such more than 30 years of best practices have formed around it in the Member States; and without a clear need indicating otherwise, those practices should not be disregarded or discouraged. Ageing is an important factor when considering the mental and physical ability to drive.

As a general remark, I would also like to emphasise that differentiation of treatment does not constitute discrimination, where the criteria for such a differentiation is reasonable, objective and aims at a legitimate purpose<sup>(21)</sup>. As has been shown, the criteria in the Commission’s proposal are reasonable and objective, and they target the legitimate purpose of increasing road safety on Union roads, which according to the case law of the European Court of Justice is “*an objective of general interest*”<sup>(22)</sup>.

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<sup>(16)</sup> European Road Safety Observatory (ERSO): Older Drivers, September 2015. [https://road-safety.transport.ec.europa.eu/system/files/2021-07/ersosynthesis2015-olderdrivers25\\_en.pdf](https://road-safety.transport.ec.europa.eu/system/files/2021-07/ersosynthesis2015-olderdrivers25_en.pdf)

<sup>(17)</sup> *ibid.*, p. 14.

<sup>(18)</sup> Risk reduction of cognitive decline and dementia: WHO guidelines. Geneva: World Health Organization; 2019 (<https://iris.who.int/bitstream/handle/10665/312180/9789241550543-eng.pdf>).

<sup>(19)</sup> *ibid.*, p.77.

<sup>(20)</sup> Council Directive 91/439/EEC (OJ L 237, 24.8.1991, p. 1)

<sup>(21)</sup> Cf. Center for Civil and Political Rights (CCPR): CCPR General Comment No. 18: Non-discrimination para. 13, (<https://www.refworld.org/docid/453883fa8.html>)

<sup>(22)</sup> Please see judgment of the Court in case C-356/12, *Glatzel*, ECLI:EU:C:2014:350, paragraph 51.

For completeness' sake it should also be highlighted that the legislative work is still ongoing on the Commission's proposal and it cannot be excluded that some of the measures you have taken issue with in your letter will be modified or even deleted as a result of the negotiations between the co-legislators the European Parliament and the Council.

I hope I was able to provide you with satisfactorily clarifications as regards the requested additional information relating to your expressed concerns. Should you have any further comments we remain at your disposal.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Filip Negreanu Arboreanu', with a large, stylized flourish at the end.

Filip Negreanu Arboreanu