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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Delegations will find attached document COM(2018) 274 final.

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Brussels, 17.5.2018
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Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2008/96/EC on road infrastructure safety management

{SEC(2018) 226 final} - {SWD(2018) 175 final} - {SWD(2018) 176 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Road safety in the EU has greatly improved over the past few decades thanks to action at EU, national, regional and local level. Between 2001 and 2010, the number of road deaths in the EU fell by 43 %, and by another 19 % between 2010 and 2016. In 2016, 25 620 people lost their lives on EU roads, 510 fewer than in 2015 and almost 5 900 fewer than in 2010.

Although some Member States continue to make considerable progress each year, EU-wide road fatality rates have stagnated in recent years. Road safety stakeholders have reacted to the slowdown with renewed commitment to the cause, as expressed by EU transport ministers in the Valletta Declaration of March 2017¹ on road safety.

Backed by this political impetus, the Commission is also proposing, at the same time as this initiative, a road safety framework for 2020-2030 that is better adapted to the known challenges and to the changes in mobility resulting from societal trends (e.g. more cyclists and pedestrians, an ageing society) and technological developments. The proposed framework follows the Safe System approach. This approach is based on the principle that human beings can and will continue to make mistakes and that it is a shared responsibility of actors at all levels to ensure that road crashes do not lead to serious or fatal injuries. According to the Safe System approach, the safety of all parts of the system must be improved — roads and roadsides, speeds, vehicles and road use so that if one part fails, other parts will still protect those involved.

Road infrastructure will continue to be very much part of the new approach. Well-designed and properly maintained roads can reduce the probability of road traffic accidents, while ‘forgiving’ roads (roads laid out in an intelligent way to ensure that driving errors do not immediately have serious consequences) can reduce the severity of accidents that do happen.

The Road Infrastructure Safety Management Directive² (hereinafter ‘the RISM Directive’) was adopted in 2008 to ensure that road safety considerations are at the forefront of all phases of the planning, design and operation of road infrastructure. However, there are big differences in the way the Directive has been implemented by Member States, with many high-performing countries going beyond the requirements of the Directive, and other countries lagging behind.

The general objective of the proposed initiative is to reduce road fatalities and serious injuries on EU road networks by improving the safety performance of road infrastructure. The specific objectives include:

- improving the follow-up on the findings of road infrastructure safety management procedures;
- fostering harmonisation and knowledge sharing between Member States on these procedures and requirements;
- protecting vulnerable road users;

¹ <http://data.consilium.europa.eu/doc/document/ST-9994-2017-INIT/en/pdf>.

² Directive 2008/96/EC of the European Parliament and of the Council of 19 November 2008 on road infrastructure safety management, OJ L 319, 29.11.2008, p. 59-67.

- improving the deployment of new technologies; and
- working towards a consistently high level of road safety across Member States, using the limited financial resources efficiently.

The revised Directive aims to achieve these objectives by introducing the following main changes:

- mandating transparency and follow-up of infrastructure safety management procedures;
- introducing a network-wide road assessment, a systematic and proactive risk mapping procedure to assess the ‘in-built’, or inherent, safety of roads across the EU;
- extending the scope of the Directive beyond the trans-European transport network (TEN-T) to cover motorways and primary roads outside the network as well as all roads outside urban areas that are built using EU funds in whole or in part;
- setting general performance requirements for road markings and road signs to make it easier to roll out cooperative, connected and automated mobility systems; and
- making it mandatory to systematically take vulnerable road users into account in all road safety management procedures.

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

The initiative aims to address the shortcomings of Directive 2008/96/EC.

The initiative is closely linked to the proposal for revising the General Safety Regulation³ and the Pedestrian Safety Regulation⁴. The proposal aims to improve the rules on vehicle safety by means of additional safety features, including active safety systems designed to prevent accidents, and features to protect vulnerable road users. The two initiatives interlink where vehicle technology relies on infrastructure (e.g. visible road markings to support lane-keeping assist).

On technological developments, the proposal is also closely linked to initiatives that are part of the Commission’s Strategy on Cooperative Intelligent Transport Systems (C-ITS)⁵.

All these initiatives should be seen as part of a broad set of measures addressing road safety from the Safe System perspective.

The relationship between the RISM Directive and Directive 2004/54/EC on minimum safety requirements for tunnels in the trans-European road network (the ‘Tunnel Directive’) has been assessed as part of regulatory fitness and simplification.

- **Consistency with other Union policies**

The proposal is anchored in the Juncker Commission’s focus on a Europe that protects, empowers and defends. It is part of the Commission’s efforts to bring Europeans closer to the

³ Regulation (EC) No 661/2009 of the European Parliament and of the Council of 13 July 2009 concerning type-approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefor, OJ L 200, 31.7.2009.

⁴ Regulation (EC) No 78/2009 of the European Parliament and of the Council of 14 January 2009 on the type-approval of motor vehicles with regard to the protection of pedestrians and other vulnerable road users; OJ L 35, 4.2.2009.

⁵ Communication from the Commission ‘A European strategy on Cooperative Intelligent Transport Systems, a milestone towards cooperative, connected and automated mobility’ (COM/2016/0766 final).

EU by making it a priority to protect them. It also contributes to the implementation of the European Pillar of Social Rights that states that "everyone has the right to access essential services of good quality, including transport".

It is in line with the goals set in the 2011 White Paper on Transport⁶ and in the Policy Orientations for Road Safety 2011-2020⁷, and forms part of the new EU road safety policy framework 2020-2030. It is consistent with the Commission's efforts to make it easier to roll out connected, cooperative and automated mobility solutions, in particular the [CCAM Communication], and is part of the third mobility package presented as part of the Energy Union proposals.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The EU has shared competence in the field of transport safety as set out in Article 4 of the Treaty on the Functioning of the European Union (TFEU). The proposal is based on Article 91(1)(c) TFEU, which provides the basis for the adoption of measures to improve transport safety, including road safety. As competence is shared, subsidiarity considerations apply.

• Subsidiarity (for non-exclusive competence)

Negative externalities of road accidents, including road fatalities and congestion, are trans-boundary problems that cannot be solved by national or local action alone. To achieve and maintain a high level of road safety across the EU, the main road network requires the targeted use of harmonised road safety management procedures based on an appropriate and proportionate regulatory framework. The necessary level of safe mobility for the key components of the EU road network would not be achieved without intervention at EU level as voluntary action is not supported by all Member States.

The ex-post evaluation as well as consultations carried out as part of the impact assessment⁸ have confirmed that the existing Directive has delivered results and is widely accepted among Member States and stakeholders. Updating the framework to include new developments as well as increasing its efficiency and effectiveness is therefore a logical response to the above considerations.

On extending the scope beyond the TEN-T network, it is clear that TEN-T roads depend on connecting roads that link important centres of economic activity to the TEN-T network. Many roads that are not part of the TEN-T network are important for the overall functioning of road transport within the EU and carry significant volumes of national and international traffic. Road safety levels on these roads can be considerably lower than on TEN-T roads themselves, which account for only 8 % of fatalities in the EU.

The ex-post evaluation has shown that those Member States that have been applying RISM procedures to their national roads for some time achieve a much better road safety performance than Member States that do not do so. Due to high traffic volumes, the primary

⁶ White Paper "Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system" (COM(2011)144 final)

⁷ Communication from the Commission "Towards a European road safety area: policy orientations on road safety 2011-2020" (COM(2010) 389 final)

⁸ SWD(2018)175.

EU road network represents a high percentage of fatalities compared to the share of these roads in the total road network (15 % of the road network outside urban areas in terms of road kilometres accounts for some 39 % of all road fatalities in the EU). Coordinated EU action on the primary road network (including the non-TEN-T part) will therefore help achieve both the medium-term EU target of halving fatalities by 2030 and the long-term target of moving towards zero fatalities in road transport by 2050.

Without EU intervention, current differences in national approaches would remain — many Member States, especially those with higher fatality rates, would not systematically apply the Directive's principles without binding EU rules. Such a situation would result in continued poor road safety performance in those Member States, which would also negatively affect the road safety performance of the EU as a whole.

The main benefits of EU action lie in the convergence towards higher standards of infrastructure safety across the EU, which the initiative aims to achieve. Travel throughout the EU should become safer, whereby countries not performing as well as others will be able to benefit from the experience of more advanced countries. This should in turn improve the functioning of the internal market, providing a smoother and more coherent travel experience for passenger and freight transport, and support the EU's objective of economic, social and territorial cohesion.

Without EU intervention, there would be no EU-wide comparable overview of the state of road safety on the primary road networks of Member States and also no comparable means to prioritise EU funding.

- **Proportionality**

The policy options assessed in the impact assessment represent various degrees of proportionality in achieving the policy objectives. While all policy options consist of proven measures to tackle the problem of road fatalities and serious injuries effectively, the most far-reaching policy option was the least proportionate. Extending the scope of the Directive to the primary road networks of Member States is proportionate as it covers a relatively modest 15 % of the road network by length. However, this accounts for some 39 % of road fatalities in the EU.

Costs to Member States are limited compared to the benefits, with the preferred policy option being three times less costly and more flexible than the most far-reaching option assessed.

- **Choice of the instrument**

Since the legal act to be amended is a Directive, the amending act should take the same form.

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

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

The Commission published the findings of the ex-post evaluation of the existing Directive in 2015⁹. They can be summarised as follows:

⁹ <https://ec.europa.eu/transport/sites/transport/files/modes/road/studies/doc/2014-12-ex-post-evaluation-study-road-infra-safety-mgmt.pdf>.

- the Directive has triggered a different way of thinking about and dealing with road safety management;
- it has encouraged generalised use of the road infrastructure safety management procedures, which are now established in all Member States and are based on a minimum set of compulsory EU rules for managing TEN-T roads;
- it provides a ‘common language’ for carrying out road infrastructure safety measures; and
- at national level, it has prompted a normative and operational process that would not have taken place in such a widespread manner without EU intervention.

On the other hand, the Directive does not seem to have provided an incentive to extend the exchange of good practices across Member States. Furthermore, the scope of the Directive is limited to TEN-T roads, which are mostly motorways and account for only around 8 % of the total road fatalities in the EU. However, the majority of Member States apply one or more of the road safety management procedures of the Directive to parts of their road networks beyond the TEN-T network on a voluntary basis.

The evaluation did not provide any evidence that the integration of the Directive with the Tunnel Directive would further improve the safety of road tunnels on the TEN-T network.

- **Stakeholder consultations**

In preparing the impact assessment for this proposal, the Commission has carried out a number of stakeholder consultation activities. Some of these were part of the impact assessment study carried out by an external contractor (COWI). The following consultation activities have been carried out:

- stakeholder conference organised by the Commission in March 2017 in Valletta, Malta;
- meetings with key stakeholders;
- a targeted stakeholder survey (carried out by COWI);
- individual interviews with selected stakeholders (carried out by COWI);
- an open public consultation conducted between 14 June and 10 September 2017; and
- meetings of the Road Tunnel Safety Committee and the Road Infrastructure Safety Management Committee.

A large majority of respondents considered that the current EU legislative framework both for infrastructure safety management and for tunnel safety addresses the problem of road safety to a large extent or to a fairly good extent. However, they referred in particular to the following as issues in the current framework: lack of harmonisation, lack of information sharing and limited scope.

Stakeholders at the stakeholder conference in Malta in March 2017 recommended that the Commission review the RISM Directive to focus more on measured outputs and less on inputs, in addition to reviewing programme goals (for TEN-T) and financial instruments.

Overall, there was near unanimity that improvements are needed to the maintenance and repair of existing roads, upgrading the safety features of existing roads and improving the protection of vulnerable road users. Opinions were more divided as to whether improvements

are needed to the quality of road furniture (such as safety barriers) and visibility of road markings and road signs. However, a clear majority of respondents still considered improvements necessary. There was widespread agreement that there should be common EU performance requirements for the visibility of road markings and road signs.

The open public consultation also showed wide agreement that comparable methodologies should be used across the EU to measure the safety of road infrastructure.

On the readiness for the deployment of cooperative, connected and autonomous mobility, opinions diverged as to whether the physical infrastructure needs to be adapted to suit the needs of vehicles with a high degree of automation or whether the vehicles need to be developed so they can adapt to the existing infrastructure. The Commission concluded that a certain degree of harmonisation of the physical infrastructure will be needed to allow a smooth roll-out of higher levels of automation and to ensure that automated vehicles operate safely in mixed traffic. A recent report by the TM 2.0 Task Force on Road Automation¹⁰ (consisting of representatives of public authorities, service providers, suppliers, manufacturers and researchers) supports this conclusion.

Comments on the needs of vulnerable road users highlighted the difficulty in prescribing individual measures for certain types of vulnerable road users. On balance, the Commission considered that it is preferable not to prescribe specific measures, but rather to mandate a general requirement to take the needs of all groups of vulnerable road users into account in road safety management procedures and to find the most appropriate solution adapted to the local circumstances.

Opinions diverged on a possible extension to the scope of the legislation beyond the TEN-T network. Private companies and NGOs were most likely to consider that the scope of the legislation should cover all roads or all main and national roads, whereas public authorities tended to consider that the scope should cover the TEN-T network. A number of respondents to the targeted stakeholder survey mentioned 'the reluctance of Member States to accept the extension to non-TEN-T roads' on subsidiarity grounds. One Member State commented that apart from the subsidiarity question, it was preferable not to extend the scope of the Directives (beyond TEN-T) in order to maintain the possibility to adapt the approaches and provisions to the specificities of the networks and their managers. However, respondents also recognised the large potential for reducing fatalities, given that most fatal accidents happen outside the TEN-T network.

The European Transport Safety Council argued that the scope of the legislation should be extended to cover all motorways, all EU (co-)financed roads and all main rural and main urban roads. This is required in view of the new objective to focus on reducing serious injuries as well as deaths (because a larger proportion of injuries occur in urban areas) and because road users should be entitled to equal levels of safety on all roads.

On balance, the Commission concluded that a limited extension beyond TEN-T to cover primary roads, which addresses a much larger number of fatalities without imposing disproportionate workload and costs on Member States, is justified and proportionate.

¹⁰ <http://tm20.org/final-report-on-road-automation-now-available/>

- **Collection and use of expertise**

The Commission sought external expertise by means of a contract for a support study with a consortium led by Ecorys and consisting of experts from COWI and SWOV, which was launched in September 2016. The findings of the impact assessment report build on the final report from this contract.

In addition, an external expert (Professor George Yannis from the National Technical University of Athens) was contracted to provide complementary analysis, a scientific review and additional validation.

A non-exhaustive list of external studies used as input for drafting the impact assessment report is provided in the annexes to the report. Overall, the sources used are numerous, largely exhaustive and representative of the different stakeholder groups.

- **Impact assessment**

The initiative is supported by an impact assessment, which has received a positive opinion, with reservations, from the Regulatory Scrutiny Board. The Board made recommendations, calling for better justification and clarification on in particular:

- the initiative's expected contribution within the comprehensive approach to road safety of the Safe System as well as its relationship and complementarity with the parallel general safety of vehicles and pedestrian safety initiative;
- the proportionality of the preferred policy option, in particular on financial constraints; and
- the need for some conclusions from the evaluations of the existing Directive as well as of the Tunnel Directive and how to address enforcement issues.

The comments have been taken into account in the revised impact assessment. They provide further explanation, as indicated in Annex I of the impact assessment report. Among other adjustments, the following modifications were made to address the issues mentioned above:

- Explanations of the Safe System approach, the contribution of individual initiatives, the relationship with the parallel general safety of vehicles and pedestrian safety initiative and their respective contributions to the general objective were added.
- The lack of funding was considered a problem driver, and a specific objective was extended to take into account the financial constraints. Compliance costs were included for each Member State for 2030.
- Additional details on the findings of the ex-post evaluation were added. The proposed approach to ensuring compliance with existing legislation was also explained.

Possible policy measures were combined into six policy options with different levels of ambition. Policy options that limit policy intervention to TEN-T (policy options 1-3) and those that extend the scope beyond TEN-T (policy options A-C) were assessed separately. Due to the complementary nature of road infrastructure safety management measures, options 1 to 3 are alternatives, but build on one another in an incremental way. Similarly, the policy options that extend policy interventions beyond TEN-T are alternatives, but build on one another.

PO1 covers minimum change at minimum cost, taking into account upcoming technological changes and proposing limited legislative changes that are relatively easy and quick to implement. It includes non-legislative, ‘soft’ measures such as the promotion of knowledge sharing and exchange of best practices to support the effectiveness of the management procedures already included in the existing Directive. This policy option also introduces legislative measures to improve the transparency of road infrastructure safety management procedures and a clear requirement to focus on assessing the safety of vulnerable road users in RISM procedures. Finally, it creates an improved interface between the RISM and Tunnel Directives by revising the RISM Directive, with a particular focus on transition areas between open roads and tunnels and on joint inspections of these areas involving both road and tunnel safety personnel.

PO2 goes further by including elements from the Safe System approach. It introduces a new procedure, the network-wide road assessment, to regularly assess and compare the in-built safety of the road network in order to proactively identify road sections where further inspection and intervention is needed. It also introduces general performance requirements for certain road infrastructure components to make it easier to roll out cooperative, connected and automated mobility. It also aims to address the lack of consistent and comparable data on the safety level of the EU road network. The guiding principle behind PO2 is that EU legislation would require Member States to conduct and properly follow up RISM procedures in order to identify a wide range of potential road infrastructure risks. However, Member States would retain flexibility in setting the requisite level of road infrastructure safety. The choice of appropriate technical solutions would also remain with Member States, with EU legislation only setting general performance requirements to support the smooth roll-out of CCAM (e.g. readability of road signs and road markings).

PO3 sets a minimum safety level to be achieved on TEN-T roads and defines minimum performance requirements for road furniture. This represents a results-driven approach that can be used to achieve a uniform level of minimum safety across the whole TEN-T network. The minimum level of safety to be achieved would be set at EU level. Member States would retain flexibility in the choice of road infrastructure safety countermeasures.

Contrary to PO1-3, PO A, B and C all involve some extension of the procedures of the RISM Directive beyond TEN-T. The extensions are restricted to main or national roads that are typically represented by the primary road networks of the Member States.

PO A includes one single legislative measure that stipulates that any road project on the national road network financed in full or in part with EU funds would have to be subject to the procedures prescribed in the RISM Directive.

PO B aims to ensure that the already established RISM procedures are applied on a wider road network, specifically including motorways and the busy roads of Member States’ primary road networks. This policy option represents a moderately ambitious mandatory extension of the scope of the procedures of the current RISM Directive. It would only have an impact on Member States that have not yet extended the application of these procedures on a voluntary basis.

PO C aims to apply the philosophy of proactive network-wide road safety management also to Member States’ primary road networks. This policy option represents a more ambitious extension of the application of the revised RISM procedures to a larger network of roads (including motorways and primary roads) beyond TEN-T.

The impact assessment identified a combination of policy option 2 and policy option C as the preferred option.

This combination could save over 3 200 lives and avoid more than 20 700 serious injuries in 2020-2030 relative to the baseline (14 650 lives saved and 97 502 serious injuries avoided in 2020-2050). For 2030 alone, road infrastructure measures would result in 562 lives saved and 3 675 serious injuries avoided.

- **Regulatory fitness and simplification**

In line with the Commission's Regulatory Fitness and Performance Programme (REFIT), the possibility of administrative simplification in particular by merging the RISM Directive with the Tunnel Directive has been assessed. The impact assessment and stakeholder consultation did not identify any road safety gains to be achieved by merging the Directives. As no reductions in the administrative burden were identified, such a merger was not considered beneficial or desirable.

The proposal introduces a new risk-based and proactive RISM procedure, the network-wide road assessment, without increasing the total number of procedures. This is achieved by integrating the useful elements from a previous reactive procedure (in particular the identification of high accident concentration areas) into the procedures for roads in operation.

- **Fundamental rights**

The proposal respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.

4. BUDGETARY IMPLICATIONS

The proposal has no budgetary implications for the EU, although the network-wide road assessment could be used as criteria for targeting EU spending.

5. OTHER ELEMENTS

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

The impact assessment identified a range of possible progress indicators that could be used for monitoring progress. The proposal avoids placing undue administrative burden on Member States by restricting reporting obligations to the key output indicator — the safety rating of the roads covered by the procedures.

To assess the impact of the legislation, it would also be necessary to make a thorough evaluation once all the changes have been phased in. The appropriate timeframe for such an evaluation will be established after the new framework has become applicable in its entirety.

- **Explanatory documents (for directives)**

Given the scope of the proposal, the fact that it only amends Directive 2008/96/EC, which all Member States have transposed in full, it does not seem justified or proportionate to require further explanatory documents.

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

Article 1(1) is modified to include references to one new and one renamed road infrastructure safety management procedure ('network-wide road assessment' and 'road safety inspection' respectively).

Article 1(2) is modified to reflect the increased scope of the Directive, adding motorways and primary roads outside the TEN-T network to the scope in order to extend the mandatory application of the Directive's procedures to specifically target the busy roads that connect major cities and regions.

Article 1(3) is modified to make the application of the Directive mandatory to any road infrastructure project outside urban areas that is completed using EU funding to ensure that EU funds are not used to build potentially unsafe roads.

Article 2(1) is modified to provide an updated definition of the 'trans-European road network' in accordance with the definition provided in Regulation (EU) No 1315/2013 on Union guidelines for the development of the trans-European transport network.

Article 2(2a) and Article 2(2b) are inserted to provide the definitions of 'motorway' and 'primary road', which are necessary due to the increased scope of the legislation.

Article 2(2c) is inserted to provide a definition of 'network-wide road assessment', a new risk-based proactive road infrastructure safety management procedure (replacing the current 'safety ranking and management of the road network in operation' procedure in Article 5, which is reactive in nature).

Article 2(5) is deleted because the 'ranking of high accident concentration sections' method is integrated in the new 'network-wide road assessment' procedure and in road safety inspections.

Article 2(7) is modified to provide an updated definition of 'road safety inspection' to clarify the targeted nature of this procedure and differentiate it from the new 'network-wide road assessment' procedure.

Article 2(10) is inserted to provide a definition of 'vulnerable road users', who are overrepresented in road fatalities and serious injuries and therefore require a special focus in the application of the Directive's procedures.

Article 5 is revised to replace the current, reactive 'safety ranking and management of the road network in operation' procedure with the new risk-based and proactive 'network-wide road assessment' procedure. A network-wide road assessment is a risk-based proactive assessment of all the roads within the scope of the Directive to evaluate and compare the in-built or inherent safety of the existing road infrastructure in order to identify priority areas for further inspection and intervention and to strengthen the infrastructure component of the Safe System approach. This new procedure takes into account historic accident data and the existence of already identified high accident concentration sections. It also systematically and proactively assesses the risks represented by road infrastructure, such as its geometric characteristics, the presence of junctions and level crossings, the existence of obstacles at the roadside and the availability of appropriate road restraint systems. This will provide a strong incentive to follow up on findings and to target investment in highest risk areas.

Article 6(1) is modified to link the identification of the road sections for road safety inspections to the findings of the network-wide road assessment carried out pursuant to Article 5.

Article 6(3) is revised to require joint road safety inspections of the transition areas between the roads covered by this Directive and the road tunnels covered by Directive 2004/54/EC. This provision is designed to ensure better cooperation between the competent entities responsible for road safety and tunnel safety because these transition areas are generally identified as the most accident prone areas of road tunnels.

Article 6a is inserted to introduce an appropriate follow-up of all the road infrastructure safety management procedures in the RISM Directive. The lack of follow-up is one of the main weaknesses identified in the evaluation of the RISM Directive and in the impact assessment. This provision will require in particular that each decision on whether to follow up a recommendation from a road safety inspection is justified and properly substantiated.

Article 6b is inserted to provide protection for vulnerable road users. The need to better protect vulnerable road users has been highlighted in the preparation of the impact assessment, in particular by relevant stakeholders. This Article requires that each RISM procedure assesses the situation of vulnerable road users separately.

Article 6c is inserted to require that road markings and road signs are applied and maintained in a way which ensures that they can be reliably recognised. This is a measure designed to ensure a coherent travel experience for road users, to help roll out connected and autonomous mobility systems and to ensure that the requirements of an ageing population are taken into consideration by making road signs and road markings easy to recognise.

Article 11a is inserted to stipulate reporting requirements for Member States on the application and the results of the road infrastructure safety management procedures. It requires in particular Member States to rank their road networks according to the level of risk identified in network-wide road assessments. Reporting requirements are missing from the current Directive, which makes EU-wide monitoring of progress, benchmarking and follow-up very difficult. Reporting requirements are essential to ensure that the in-built safety of the road network can be measured and communicated to road users and that the trend of convergence in road safety performance across the EU is accelerated.

New requirements are inserted in Annex II to ensure that the needs of vulnerable road users are taken into account in the application of road safety audits.

A new Annex IIa is inserted to list the elements for road safety inspections because the main focus should be on improving the safety of existing roads.

Annex III is replaced with a new Annex listing the elements of the new procedure 'network-wide road assessment'. These include general information about the roads assessed, accident data and traffic volumes, operational characteristics, specific considerations on road layout and safety features and common risks to ensure that the in-built safety of roads can be properly assessed.

Annex IV is modified to clarify that the description of the precise location of accidents includes GNSS coordinates.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2008/96/EC on road infrastructure safety management

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)(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 Committee¹¹,

Having regard to the opinion of the Committee of the Regions¹²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) It is the strategic objective of the Union to halve the number of road deaths by 2020 compared to 2010 and to move close to zero fatalities by 2050 ("Vision Zero")¹³. However, progress towards achieving these objectives has stalled in recent years.
- (2) According to the Safe System approach, death and serious injury in road accidents is largely preventable. It should be a shared responsibility at all levels to ensure that road crashes do not lead to serious or fatal injuries. In particular, well-designed and properly maintained roads should reduce the probability of road traffic accidents, whilst "forgiving" roads (roads laid out in an intelligent way to ensure that driving errors do not immediately have serious consequences) should reduce the severity of accidents.
- (3) The roads of the trans-European network defined in Regulation (EU) No 1315/2013 of the European Parliament and of the Council¹⁴ are of key importance in supporting European integration. A high level of safety should therefore be guaranteed on these roads.
- (4) The road infrastructure safety management procedures implemented on the trans-European network have helped reduce fatalities and serious injuries in the Union. It is clear from the evaluation of the effects of Directive 2008/96/EC of the European Parliament and of the Council¹⁵ that Member States which have been applying road

¹¹ OJ C , , p. .

¹² OJ C , , p. .

¹³ Communication from the Commission "Towards a European road safety area: policy orientations on road safety 2011-2020" (COM(2010) 389 final)

¹⁴ Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348 20.12.2013, p. 1).

¹⁵ Directive 2008/96/EC of the European Parliament and of the Council of 19 November 2008 on road infrastructure safety management (OJ L 319, 29.11.2008, p. 59).

infrastructure safety management ('RISM') principles on a voluntary basis to their national roads beyond the TEN-T network have achieved a much better road safety performance than Member States which do not do so.

- (5) A large proportion of road accidents occur on a small proportion of roads where traffic volumes and speeds are high and where there is a wide range of traffic travelling at different speeds. Therefore the limited extension of the scope of Directive 2008/96/EC to motorways and primary roads beyond the TEN-T network should contribute significantly to the improvement of road infrastructure safety across the Union.
- (6) Further, the mandatory application of the procedures of Directive 2008/96/EC to any road infrastructure project outside urban areas which is completed using Union funding should ensure that Union funds are not used to build unsafe roads.
- (7) Risk-based network-wide road assessment has emerged as an efficient and effective tool to identify sections of the network that should be targeted by more detailed road safety inspections and to prioritise investment according to its potential to deliver network-wide safety improvements. The entire road network covered by this Directive should therefore be systematically assessed to increase road safety across the Union.
- (8) Integrating the best performing elements from the previous "safety ranking and management of the road network in operation procedure" into the new network-wide road assessment procedure should allow better identification of road sections where the opportunities to improve safety are the greatest and where targeted interventions should deliver the biggest improvements.
- (9) Systematic follow-up of the findings of RISM procedures is crucial to achieve the road infrastructure safety improvements necessary for meeting the Union's road safety objectives. To this end, prioritised action plans should ensure that the necessary interventions are implemented as soon as possible.
- (10) The safety performance of existing roads should be improved by targeting investment to the road sections with the highest accident concentration and the highest accident reduction potential.
- (11) Sections of the road network adjoining road tunnels of the trans-European road network covered by Directive 2004/54/EC of the European Parliament and of the Council ¹⁶ have a particularly high accident risk. Joint road safety inspections of these road sections involving representatives of both the competent road and tunnel authorities should therefore be introduced in order to improve the safety of the road network as a whole.
- (12) Vulnerable road users accounted for 46% of road fatalities in the Union in 2016. Ensuring that the interests of these users are taken into account in all RISM procedures should therefore improve their safety on the road.
- (13) The design and maintenance of road markings and road signs is an important element in ensuring road infrastructure safety, especially in light of the development of vehicles equipped with driver assistance systems or higher levels of automation. In particular, it is necessary to ensure that road markings and signs can be easily and reliably recognised by such vehicles.
- (14) In order to achieve transparency and improve accountability, key performance indicators should be reported.

¹⁶ Directive 2004/54/EC of the European Parliament and of the Council of 29 April 2004 on minimum safety requirements for tunnels in the Trans-European Road Network (OJ L 167, 30.4.2004, p. 39).

- (15) Publication of the results of network-wide road assessments should allow the level of in-built infrastructure safety to be compared across the Union.
- (16) Since the objective of this Directive, namely the establishment of procedures to ensure a consistently high level of road safety throughout the trans-European network and the network of motorways and primary roads across the Union cannot be sufficiently achieved by the Member States, but can rather, as improvement is necessary throughout the Union in order to ensure convergence towards higher standards of road infrastructure safety, 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. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective. As a result of action at Union level, travel throughout the Union should become safer which in turn should improve the functioning of the internal market and support the objective of economic, social and territorial cohesion.
- (17) In order to ensure that the content of RISM procedures continues to reflect the best available technical knowledge, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission for the purpose of adapting the Annexes to the Directive to technical progress. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016¹⁷. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (18) Specific measures are necessary for the continuous improvement of safety management practices and to facilitate the recognition of road markings and road signs by vehicles equipped with driver assistance systems or higher levels of automation. In order to ensure uniform conditions for the implementation of the relevant provisions of this Directive, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and the Council¹⁸.
- (19) Directive 2008/96/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 2008/96/EC is amended as follows:

- (1) in Article 1, paragraphs 1 to 3 are replaced by the following:

"1. This Directive requires the establishment and implementation of procedures relating to road safety impact assessments, road safety audits, road safety inspections and network-wide road assessments by the Member States.

¹⁷ OJ L 123, 12.5.2016, p. 1.

¹⁸ 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).

2. This Directive shall apply to roads which are part of the trans-European network, to motorways and to primary roads, whether they are at the design stage, under construction or in operation.

3. This Directive shall also apply to roads and to road infrastructure projects not covered by paragraph 2 which are situated outside urban areas and are completed using Union funding in whole or in part.”;

(2) Article 2 is amended as follows:

(a) point 1 is replaced by the following:

“1. ‘trans-European road network’ means the road network defined in Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network (OJ L 348 20.12.2013, p. 1).;”;

(b) the following points 2a to 2c are inserted:

“2a. ‘motorway’ means a road specially designed and built for motor traffic, which does not serve properties bordering on it, and which meets the following criteria:

(a) it is provided, except at special points or temporarily, with separate carriageways for the two directions of traffic, separated from each other either by a dividing strip not intended for traffic or, exceptionally, by other means;

(b) it does not cross at level with any road, railway or tramway track, bicycle path or footpath;

(c) it is specifically designated as a motorway;

2b. ‘primary road’ means a road that is not a motorway but connects major cities or regions, or both, and is defined as a primary road in the EuroRegionalMap produced by the National Mapping and Cadastral Agencies of Europe;

2c. ‘network-wide road assessment’ means an assessment of the safety of the road network within the scope of this Directive in order to benchmark accident and impact severity risk;”;

(c) point 5 is deleted;

(d) points 6 and 7 are replaced by the following:

“6. ‘safety rating’ means the classification of parts of the existing road network in categories according to their objectively measured in-built safety;

7. ‘road safety inspection’ means a targeted on-site inspection of an existing road or section of road to identify hazardous conditions, faults and deficiencies that increase the risk of accidents and injuries;”;

(e) the following point 10 is added:

“10. ‘vulnerable road user’ means non-motorised road users, including, in particular, cyclists and pedestrians, as well as users of powered two-wheelers.”;

(3) Article 5 is replaced by the following:

“Article 5

Network-wide road assessment

1. Member States shall ensure that a network-wide road assessment is carried out on the entire road network in operation covered by this Directive. Network-wide road assessments shall

comprise a visual inspection, an analysis of traffic volumes and historic accident data and an assessment of crash and impact severity risk. Member States shall ensure that the first assessment is carried out by 2025 at the latest. Subsequent network-wide road assessments shall be sufficiently frequent in order to ensure adequate safety levels, but in any case shall be carried out at least every five years.

2. In carrying out the network-wide road assessment, Member States shall include the elements laid down in Annex III.

3. On the basis of the results of the assessment referred to in paragraph 1, Member States shall classify all sections of the road network in no fewer than three categories according to their in-built safety.

4. Member States shall ensure that network-wide road assessments are undertaken by the competent entity.

5. Member States shall ensure that appropriate signs are in place to warn road users of road infrastructure segments that are undergoing repairs and which may thus jeopardise the safety of road users. These signs shall also include signs which are visible during both day and night time and set up at a safe distance and shall comply with the provisions of the Vienna Convention on Road Signs and Signals of 1968."

(4) Article 6 is amended as follows:

(a) the title is replaced by the following:

“Article 6

Road safety inspections”;

(b) paragraph 1 is replaced by the following:

“1. Member States shall ensure that road safety inspections are undertaken on the road network in order to identify road safety related features and prevent accidents. The selection of the road sections to be subject to this inspection shall be based on the results of the assessment carried out pursuant to Article 5, with priority being given to high risk sections.”;

(c) paragraphs 2 and 3 are replaced by the following:

“2. When carrying out road safety inspections Member States shall include the elements set out in Annex IIa .

3. Member States shall ensure the safety of sections of the road network adjoining road tunnels covered by Directive 2004/54/EC through joint road safety inspections involving the competent entities involved in the implementation of this Directive and Directive 2004/54/EC. The joint road safety inspections shall be carried out at least every three years.”;

(5) the following Articles 6a, 6b and 6c are inserted:

“Article 6a

Follow-up of procedures for roads in operation

1. Member States shall ensure that the findings of network-wide road assessments carried out pursuant to Article 5 are followed up by targeted road safety inspections or by direct remedial action.

2. Member States shall ensure that the findings of road safety inspections carried out pursuant to Article 6 are followed up by reasoned decisions determining if remedial action is necessary. In particular, Member States shall identify road sections where further road infrastructure

safety improvements are necessary and define actions to be prioritised for improving the safety of those road sections.

3. Member States shall ensure that remedial action is targeted at road sections with low safety levels and which offer the opportunity for the implementation of measures with high benefit-cost ratios.

4. Member States shall prepare and regularly update a risk-based prioritised action plan to track the implementation of identified remedial action. In the preparation of the action plan, Member States shall give priority to road sections with high potential for road safety improvements taking into account interventions with high benefit-cost ratios.

Article 6b

Protection of vulnerable road users

Member States shall ensure that the needs of vulnerable road users are taken into account in the implementation of the procedures set out in Articles 3 to 6.”;

Article 6c

Road markings and road signs

1. Member States shall ensure that road markings and road signs are properly designed and maintained in such a way that they can be easily and reliably recognised by both human drivers and vehicles equipped with driver assistance systems or higher levels of automation.

2. The Commission shall develop general performance requirements to facilitate the recognition of road markings and road signs. For this purpose, the Commission shall adopt an implementing act in accordance with the procedure referred to in Article 13(2).”;

(6) Article 10 is replaced by the following:

“Article 10

Exchange of best practices

In order to improve the safety of Union roads, the Commission shall establish a system for the exchange of best practices between the Member States, covering, *inter alia*, existing road infrastructure safety projects and proven road safety technology.”;

(7) in Article 11, paragraph 2 is replaced by the following:

"2. The Commission shall be assisted by the Committee referred to in Article 13. In so far as the adoption of specific measures is required, such measures shall be adopted in accordance with the advisory procedure referred to in Article 13(2)"

(8) the following Article 11a is inserted:

“Article 11a

Reporting

1. Member States shall provide a report to the Commission by 31st October [OP: please insert the YEAR calculated 24 months following the entry into force] and every three years thereafter on the percentage of the road network assessed by network-wide road assessment in the preceding three years, and the safety rating of the road sections assessed by category of road users.”;

(9) Article 12 is replaced by the following:

“Article 12

Adaptation to technical progress

The Commission is empowered to adopt delegated acts in accordance with Article 12a to adapt the Annexes to this Directive to technical progress.”;

(10) the following Article 12a is inserted:

“Article 12a

Delegated acts

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 12 shall be conferred on the Commission for an indeterminate period of time from [date of entry into force of this Directive].

3. The delegation of power referred to in Article 12 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 12 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.”;

(11) Article 13 is replaced by the following:

"Article 13

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.”;

(12) the Annexes are amended as set out in the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [OP: please insert the DATE calculated 18 months following the entry into force] at the latest. 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 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. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President