



Reports of Cases

OPINION OF ADVOCATE GENERAL
SAUGMANDSGAARD ØE
delivered on 24 November 2016¹

Case C-632/15

Costin Popescu

v

Guvernul României,

Ministerul Afacerilor Interne,

Direcția Regim Permise de Conducere și înmatriculare a Vehiculelor,

Direcția Rutieră,

Serviciul Public Comunitar Regim Permise de Conducere și înmatriculare a Vehiculelor

(Request for a preliminary ruling from the Înalta Curte de Casație și Justiție

(High Court of Cassation and Justice, Romania))

(Reference for a preliminary ruling — Transport — Road transport — Driving licences — Directive 2006/126/EC — Article 13(2) — Concept of ‘entitlement to drive granted before 19 January 2013’ — National legislation transposing that directive — Obligation to obtain a driving licence imposed on persons who had been authorised to ride mopeds without a licence before the entry into force of that legislation — Whether permitted)

I – Introduction

1. The request for a preliminary ruling from the Înalta Curte de Casație și Justiție (High Court of Cassation and Justice, Romania) concerns the interpretation of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences² and more specifically, in essence, the interpretation of Article 13(2) in conjunction with recital 5 thereof.

2. The request has been made in an action brought by an individual seeking recognition of his entitlement to ride a moped-style vehicle on the public highway, confirmed by a document attesting to the fact that he has completed a course on the highway code, after 19 January 2013, the date of application of the provisions of Directive 2006/126 which are relevant in the present case³ and the date of entry into force of the Romanian legislation transposing that directive into national law.

3. The applicant claims that, by virtue of the abovementioned document, he holds an ‘entitlement to drive granted before 19 January 2013’ within the meaning of Article 13(2) of Directive 2006/126, and that this exempts him from undergoing the theory and practical tests which must be taken in order to obtain the driving licence which has been required to ride mopeds in Romania since that date.

1 — Original language: French.

2 — OJ 2006 L 403, p. 18. That directive entered into force on 19 January 2007.

3 — However, under Article 18 of Directive 2006/126, Article 2(1), Article 5, Article 6(2)(b), Article 7(1)(a), Article 9, Article 11(1) and (3) to (6) and Article 12 of and Annexes I, II and III to the directive applied from 19 January 2009. With regard to the scope *ratione temporis* of the provisions of the directive, see, inter alia, judgments of 1 March 2012, *Akyüz* (C-467/10, EU:C:2012:112, paragraph 25 et seq.), and of 26 April 2012, *Hofmann* (C-419/10, EU:C:2012:240, paragraphs 33 and 37).

4. In the light of the considerations which I will set out below, I take the view that the provisions of that directive do not preclude transposing legislation such as that at issue by which a Member State requires persons who were previously authorised to ride mopeds on the public highway without holding a driving licence to obtain such a licence.

II – Legislative framework

A – EU law

5. According to recital 5 of Directive 2006/126, the directive ‘should not prejudice existing entitlements to drive granted or acquired before its date of application’.

6. According to recital 13 of that directive, ‘introducing a category of driving licences for mopeds will, in particular, increase road safety as regards the youngest drivers who, according to the statistics, are the hardest hit by road accidents’.

7. Recital 16 states that ‘the model driving licence as set out in Directive 91/439/EEC [4] should be replaced by a single model in the form of a plastic card. At the same time, this model driving licence needs to be adapted on account of the introduction of a new category of driving licences for mopeds and of a new category of driving licences for motorcycles’.

8. Under paragraphs 1 and 2 of Article 4, entitled ‘Categories, definitions and minimum ages’:

‘1. The driving licence provided for in Article 1 shall authorise the driving of power-driven vehicles in the categories defined hereafter. It may be issued from the minimum age indicated for each category. A “power-driven vehicle” means any self-propelled vehicle running on a road under its own power ...

2. mopeds:

Category AM:

— Two-wheel vehicles or three-wheel vehicles with a maximum design speed of not more than 45 km/h, as defined in Article 1(2)(a) of Directive 2002/24/EC [5] (excluding those with a maximum design speed under or equal to 25 km/h), and light quadricycles as defined in Article 1(3)(a) of Directive 2002/24/EC;

— the minimum age for category AM is fixed at 16 years.’

9. Article 7 of Directive 2006/126, entitled ‘Issue, validity and renewal’, provides, in paragraph 1(a) and (b):

‘Driving licences shall be issued only to those applicants:

- (a) who have passed a test of skills and behaviour and a theoretical test and who meet medical standards, in accordance with the provisions of Annexes II and III;
- (b) who have passed a theory test only as regards category AM; Member States may require applicants to pass a test of skills and behaviour and a medical examination for this category.

4 — Council Directive of 29 July 1991 on driving licences (OJ 1991 L 237, p. 1).

5 — Directive of the European Parliament and of the Council of 18 March 2002 relating to the type-approval of two or three-wheel motor vehicles (OJ 2002 L 124, p. 1).

For tricycles and quadricycles within this category, Member States may impose a distinctive test of skills and behaviour. For the differentiation of vehicles in category AM, a national code may be inserted on the driving licence.’

10. Article 13 of the directive, entitled ‘Equivalences between non-Community model licences’, reads as follows:

‘1. With the agreement of the Commission, Member States shall establish equivalences between entitlements obtained before the implementation of this Directive and the categories defined in Article 4.

After consulting the Commission, Member States may make to their national legislation such adjustments as are necessary for the purpose of implementing the provisions of Article 11(4), (5) and (6) [6].

2. Any entitlement to drive granted before 19 January 2013 shall not be removed or in any way qualified by the provisions of this Directive.’

11. Under Article 16(1) and (2) of Directive 2006/126, headed ‘Transposition’, Member States were required, first, to adopt and publish the laws, regulations and administrative provisions necessary to comply with the listed provisions of the directive⁷ not later than 19 January 2011 and, second, to apply those provisions as from 19 January 2013.

B – Romanian law

12. Legea nr. 203/2012 (Law No 203/2012),⁸ which transposed certain provisions of Directive 2006/126 into Romanian law, is applicable from 19 January 2013. It amended Ordonanța de urgență a Guvernului nr. 195/2002 privind circulația pe drumurile publice (Government Emergency Order No 195/2002 on the use of the public highway) (‘OUG No 195/2002’)⁹ and the rules implementing that emergency order, as approved by Hotărârea Guvernului nr. 1391/2006 (Government Decision No 1391/2006).¹⁰

13. Before the entry into force of Law No 203/2012, the rules implementing OUG No 195/2002 provided, in Article 160(2) thereof, that ‘persons not in possession of a driving licence may ride mopeds on the public highway only if they furnish evidence that they have completed a course on the highway code organised by an institution authorised to train drivers of motor vehicles’.

14. Under Article 161(2) of the rules implementing OUG No 195/2002, ‘where they use the public highway, cyclists are required to carry their identity card and moped riders must also carry their certificate attesting to completion of a course on the highway regulations and the vehicle registration certificate’.

15. Since the entry into force of Law No 203/2012, the provisions of Articles 160 and 161 of the rules implementing OUG No 195/2002 relating to mopeds have been repealed, whilst the provisions applicable to bicycles continue to be valid.

6 — Article 11 is headed ‘Various provisions concerning the exchange, the withdrawal, the replacement and the recognition of driving licences’.

7 — Namely Article 1(1); Article 3; Article 4(1) to (3) and (4)(b) to (k); Article 6(1), (2)(a) and (c) to (e); Article 7(1)(b) to (d), and (2), (3) and (5); Article 8; Article 10; Articles 13 to 15; Annex I, point 2; Annex II, point 5.2 concerning categories A1, A2 and A, and Annexes IV to VI.

8 — Law of 9 November 2012 (*Monitorul Oficial al României*, No 760 of 12 November 2012).

9 — Emergency order as subsequently amended and supplemented (*Monitorul Oficial al României*, Part I, No 670 of 3 August 2006).

10 — Decision of 4 October 2006 (*Monitorul Oficial al României*, Part I, No 876 of 26 October 2006).

16. Article 6(6) and (21) of OUG No 195/2002, as amended by Law No 203/2012, ('the amended OUG No 195/2002') defines the concepts of 'power-driven vehicle' and 'moped' and provides that 'mopeds ... shall be considered power-driven vehicles' and that light quadricycles 'shall be treated as mopeds'.

17. Article 20(1) and (2) of the amended OUG No 195/2002 is worded as follows:

'(1) In order to drive power-driven vehicles on the public highway ... drivers shall be in possession of the relevant driving licence.

(2) Driving licences shall be issued for the following categories of vehicle: AM ...'

18. Annex 1 to the amended OUG No 195/2002 concerns the categories of vehicles referred to in Article 20(2) of that OUG for which a driving licence may be issued. Section (a) of that annex defines 'category AM' as referring to 'mopeds'.

19. Under Article 23(1) and (9) of the amended OUG No 195/2002:

'(1) Entitlement to drive a power-driven vehicle ... on the public highway shall be granted exclusively to holders of a valid driving licence corresponding to the category to which the vehicle belongs or to any person who, alternatively, can produce a document authorising him to use the public highway.

...

(9) The examination for obtaining a driving licence shall consist of a theory test to ascertain the applicant's knowledge and a practical test to verify the applicant's skills and behaviour, according to the category of licence applied for.

The practical test for category AM shall consist only in verifying the applicant's skills on tracks specifically designed for that purpose. The requirements for obtaining a driving licence shall be laid down by regulation.'

III – The dispute in the main proceedings, the question referred for a preliminary ruling and the procedure before the Court

20. Costin Popescu is in possession of a registration certificate issued to him on 12 October 2010 for an Aixam light quadricycle, classed in vehicle category L6e¹¹ and treated as a moped. He is also in possession of a certificate, dated 26 October 2010, attesting to the fact that he completed a course on the highway code for riding mopeds on the public highway. Those documents were sufficient at that time to be able to use a vehicle such as his in accordance with Articles 160 and 161 of the rules implementing OUG No 195/2002 in the version in force at the time.

21. From 19 January 2013, Law No 203/2012, which amended OUG No 195/2002 in order to transpose certain provisions of Directive 2006/126 into national law, introduced the requirement to obtain a driving licence for riding mopeds or vehicles treated as such on the public highway in Romania.¹²

¹¹ — With regard to this concept, see Article 1(3)(a) of Directive 2002/24.

¹² — The defendant authorities in the main proceedings have stated that this amendment was intended to transpose into national law, more specifically, Articles 4, 6, 7, 12 and 13 of Directive 2006/126.

22. Mr Popescu brought an action against a number of national authorities¹³ in the Curtea de Apel București (Court of Appeal, Bucharest, Romania), seeking recognition that his entitlement to ride mopeds on the public highway, acquired before 19 January 2013, continued after that date, without having to comply with any additional formal or procedural requirements,¹⁴ and an order that the competent authority issue him a document confirming that entitlement. In support of his action, he has claimed that the new rules under Law No 203/2012 run counter to the provisions of Directive 2006/126.

23. As the applicant in the main proceedings has also raised a plea of non-constitutionality in respect of provisions of OUG No 195/2002 as amended by that law, the Curtea de Apel București (Court of Appeal, Bucharest) has referred the matter to the Curtea Constituțională (Constitutional Court, Romania).

24. By decision of 5 December 2013, the Curtea Constituțională (Constitutional Court) rejected the plea of non-constitutionality as unfounded on the grounds that it did not have jurisdiction to interpret provisions of EU law, a prerogative enjoyed only by the Court of Justice of the European Union, and that the provisions of national law relied on by Mr Popescu were consistent with the Romanian Constitution.

25. On the basis of that decision, the Curtea de Apel București (Court of Appeal, Bucharest) declared the application inadmissible by judgment of 8 April 2014.

26. Mr Popescu appealed against that judgment to the Înalta Curte de Casație și Justiție (High Court of Cassation and Justice), claiming that the provisions of Law No 203/2012 are not consistent with recital 5 and Article 13(2) of Directive 2006/126, under which ‘any entitlement to drive granted before 19 January 2013 shall not be removed or in any way qualified by the provisions of this Directive’.

27. In defence, the Inspectoratul General al Poliției Române (Romanian General Police Inspectorate) asserted that the changes made to OUG No 195/2002 by Law No 203/2012, consisting in making it necessary to obtain a licence in order to ride a moped, were motivated by the objective of improving road safety by reducing the number of road traffic accidents involving mopeds and minimising the consequences of such accidents, through the requirement that riders acquire the necessary theoretical knowledge and practical skills on an appropriate course.

28. Against this background, by order of 12 November 2015, which was received at the Court on 30 November 2015, the Înalta Curte de Casație și Justiție (High Court of Cassation and Justice) decided to stay the proceedings and to refer the following question to the Court for a preliminary ruling:

‘In the case of riders of mopeds in possession of an official document which gave them the right to ride on the public highway before 19 January 2013, do the provisions of Directive 2006/126 ... permit the Romanian State to impose a requirement, for the purpose of being able to continue to ride a moped after that date, to obtain a driving licence by undergoing tests/examinations similar to those required for other motor vehicles?’

13 — Namely the Guvernul României (Romanian Government), the Ministerul Afacerilor Interne (Ministry of Internal Affairs), the Direcția Regim Permise de Conducere și înmatriculare a Vehiculelor (Driving Licences and Vehicle Registration Directorate), the Direcția Rutieră (Highways Directorate) and the Serviciul Public Comunitar Regim Permise de Conducere și înmatriculare a Vehiculelor (Public Driving Licence and Vehicle Registration Service).

14 — In its observations the Romanian Government states that under national transitional rules, because Mr Popescu was in possession of proof that he had completed a course on the highway code obtained before the entry into force of the new rules, he had ‘the opportunity, between 19 January 2013 and 19 January 2014, to undergo the examination to test theoretical knowledge and practical skills ...’, without taking a course on the highway code [organised by an institution authorised to train drivers of motor vehicles], subject to compliance with the other conditions laid down in Directive 2006/126’.

29. Written observations were submitted by Mr Popescu, the Romanian and Slovak Governments and the European Commission. There has been no hearing.

IV – Analysis

A – *The wording of the question referred*

30. I believe that a few preliminary remarks should be made regarding the question put by the referring court, from the point of view of both the formulation of that question and the proposed manner in which it is to be dealt with.

1. The legal characterisation of the facts of the dispute in the main proceedings

31. It can be observed that the Romanian Government has given clarifications and even expressed reservations regarding the wording of the question referred to the Court.

32. According to its question, the referring court seems to start from the premiss that the applicant in the main proceedings was ‘in possession of an official document which gave [him] the right to ride on the public highway before 19 January 2013’ under the Romanian legislation in force before that date. However, the Romanian Government disputes that either of the two documents relied on by the applicant¹⁵ can be considered to have the force of an official document which genuinely granted him the right in question at that time.

33. With regard to the registration certificate issued to Mr Popescu by the competent administrative authority,¹⁶ the Romanian Government submits that that certificate was ‘proof only of the licensing of the vehicle [concerned]’ and allowed it to be logged in accordance with the applicable national rules.¹⁷ With regard to the certificate attesting to completion of a course on the highway code issued to him by a driving school, the Romanian Government asserts that such a certificate of completion of a course on the highway regulations met the requirements under the rules in force at the time,¹⁸ without, however, giving rise to an actual entitlement to drive a power-driven vehicle on the public highway. In its view, that entitlement, which Article 23(1) of OUG No 195/2002 granted exclusively to holders of a valid *driving licence*, should not be confused with the simple *entitlement to use mopeds on the public highway* which was conferred by the other rules mentioned above.¹⁹

15 — See point 20 of this Opinion.

16 — Namely the Serviciul Public Comunitar de Evidență a persoanelor Sector 4 București (Sector No 4 Local Register Office, Bucharest).

17 — In this regard the Romanian Government cites Article 12(1) of OUG No 195/2002, under which ‘in order to be able to use the public highway, vehicles, except for those which are towed or pushed by hand and bicycles, must be licenced or registered, as the case may be, and bear plates with the licence or registration number ...’, and Article 14(1) of that order, under which Mr Popescu’s vehicle had to be registered, in this case, with one of the districts of the municipality of Bucharest, which keep registers of vehicles such as mopeds.

18 — Namely Article 160(2) and Article 161(2) of the rules implementing OUG No 195/2002 in their original version.

19 — The Romanian Government asserts that before OUG No 195/2002 was amended by Law No 203/2012, a moped was not considered a power-driven vehicle, that moped riders were subject to the same public highway regulations as cyclists (including the requirement to use cycle paths) and that the certificate attesting to completion of a course on the highway code required for such a rider could not be taken away from him by the police authorities or be restricted on account of road traffic offences (such as driving under the influence of alcohol or failing to stop at a red light), contrary to the possibilities existing for a driving licence.

34. I note in this regard that, in the context of a reference for a preliminary ruling under Article 267 TFEU, it is for the referring court alone to define the content of the domestic law of a Member State and the legal characterisation of the dispute before it.²⁰ As the Court cannot itself assess the facts in connection with the relevant provisions of national law, it must rule on the matter in the light of the factual and legal considerations set out in the order for reference.²¹ Nevertheless, the Court may, in a spirit of cooperation with national courts, provide them with all the guidance that it deems necessary.²²

35. In the present case it appears to me that neither of the two documents relied on by the applicant in the main proceedings can be regarded as a document constituting a genuine ‘driving licence’ granted by the authorities of a Member State in accordance with Directive 2006/126. The question remains whether the applicant held an ‘entitlement to drive granted before 19 January 2013’ under the Romanian legislation in force before that date which could, or even should, be preserved pursuant to Article 13(2) of Directive 2006/126.

2. The subject matter of the question referred and the opposing arguments

36. The referring court asks the Court, in essence, to determine whether or not the provisions of Directive 2006/126, in particular Article 13(2), preclude legislation of a Member State which forces persons who were authorised to ride mopeds on the public highway even though they were not in possession of a driving licence before 19 January 2013 — the date of entry into force of the provisions transposing that directive into domestic law — to obtain such a licence in order to be able to continue to ride mopeds after that date.

37. I note that the Court has already given an interpretation of various provisions of Directive 2006/126, in particular in a series of judgments concerning the principle of mutual recognition of driving licences under that directive.²³ The question asked in this case is novel in so far as the interpretation of the concept of ‘entitlement to drive granted before 19 January 2013’ in Article 13(2) of the directive has not been the subject of a question referred for a preliminary ruling per se. Nevertheless, I would stress that the Court ruled on the function fulfilled by that provision in the preliminary observations made in the judgment in *Hofmann*.²⁴ I will return to the principles which can be inferred from this precedent in case-law.²⁵

38. In its decision the referring court does not take a view on the answer which might be given to the question. In his written observations Mr Popescu puts forward the argument that it would be contrary to the requirements of Directive 2006/126, more specifically the wording of Article 13(2), to take away from persons in his situation the entitlement to ride mopeds on the public highway acquired under the rules prior to the contested reform.

20 — See, inter alia, judgments of 17 March 2011, *Naftiliaki Etairaia Thasou and Amaltheia I Naftiki Etairaia* (C-128/10 and C-129/10, EU:C:2011:163, paragraph 40); of 28 July 2011, *Samba Diouf* (C-69/10, EU:C:2011:524, paragraph 59); and of 13 December 2012, *Caves Krier Frères* (C-379/11, EU:C:2012:798, paragraph 35 et seq.).

21 — See, inter alia, judgments of 20 May 2010, *Harms* (C-434/08, EU:C:2010:285, paragraph 33); of 3 May 2012, *Kastrati and Others* (C-620/10, EU:C:2012:265, paragraph 38); and of 11 September 2014, *Essent Belgium* (C-204/12 to C-208/12, EU:C:2014:2192, paragraph 52).

22 — See, inter alia, judgments of 1 July 2008, *MOTOE* (C-49/07, EU:C:2008:376, paragraph 30); of 29 October 2009, *Pontin* (C-63/08, EU:C:2009:666, paragraph 49); and of 18 July 2013, *AES-3C Maritza East 1* (C-124/12, EU:C:2013:488, paragraph 42).

23 — See judgments of 1 March 2012, *Akyüz* (C-467/10, EU:C:2012:112); of 26 April 2012, *Hofmann* (C-419/10, EU:C:2012:240); of 23 April 2015, *Aykul* (C-260/13, EU:C:2015:257); of 21 May 2015, *Wittmann* (C-339/14, EU:C:2015:333); and of 25 June 2015, *Nimanis* (C-664/13, EU:C:2015:417).

24 — Judgment of 26 April 2012 (C-419/10, EU:C:2012:240, paragraphs 30 to 42). The question asked in that case concerned the interpretation of Article 2(1) and Article 11(4), second paragraph, of Directive 2006/126, but the referring court was uncertain whether Article 13(2) of the directive could preclude the application of those provisions, knowing that the applicant in the main proceedings claimed that, by virtue of that provision, driving licences issued before 19 January 2013 cannot be subject to a restriction, suspension or withdrawal measure (see also Opinion of Advocate General Bot in *Hofmann*, C-419/10, EU:C:2011:723, points 28 to 39).

25 — See point 56 et seq. of this Opinion.

39. On the other hand, the Romanian and Slovak Governments and the Commission assert that the provisions of the directive do not preclude national transposing measures like those at issue which tighten the conditions governing entitlement to ride mopeds by requiring applicants to obtain a driving licence and thus to take tests and/or examinations similar to those required for driving other power-driven vehicles.²⁶ I concur with this latter view for the reasons set out below.

B – *The answer to the question referred*

40. In view of the disparities between the different language versions of Article 13(2) of Directive 2006/126, in conjunction with recital 5 of the directive, questions may be raised concerning the impact which those provisions will have on the resolution of a dispute like that in the main proceedings. However, it seems clear to me that not only the objectives pursued by that directive but also the specific context of Article 13 suggest an interpretation contrary to that proposed by Mr Popescu.

1. The questions raised by the wording of Article 13(2) of Directive 2006/126

41. I note that Article 13(2) of Directive 2006/126, which is relied on by Mr Popescu to support his claim that he cannot be forced to obtain a licence in order to be able to continue to ride his vehicle treated as a moped on the public highway, is worded as follows, in its French version: ‘aucun *droit de conduire délivré* avant le 19 janvier 2013 n’est supprimé ou assorti de restrictions quelconques aux termes des dispositions de la présente directive’.²⁷

42. A literal interpretation of the expression ‘droit de conduire délivré’ (‘entitlement to drive granted’) in that version, particularly in the light of the usual meaning of the term ‘délivré’,²⁸ could suggest that the wording of Article 13(2) means that only express entitlements to drive stemming from a document which was formally issued, generally in the form of an individual administrative document, before 19 January 2013 would not be affected, under that provision, by the requirements contained in Directive 2006/126. It would seem that an equivalent approach could be apparent from other language versions of that provision.²⁹

43. I note in this regard that the term ‘délivré’ or ‘délivrance’ also appears, inter alia, in the French version of Articles 4, 6 and 7 of Directive 2006/126,³⁰ which concern the minimum conditions for the grant of the single European driving licence model provided for in Article 1, reinforcing the idea that these two terms refer in general to the issue by the competent national authorities of a document which confers on its holder an entitlement to drive equivalent to that provided by a driving licence in the strict sense.

26 — Under Article 23(1) and (9) of the amended OUG No 195/2002.

27 — My emphasis.

28 — ‘*Délivrance*’ [issue, grant] is defined, ‘in the common sense’, as ‘l’action de remettre à une personne une chose ou un acte [tel que] la copie exécutoire d’un jugement’ [‘the action of giving a person an item or a document [such as] the enforceable copy of a judgment’] (see Cornu, G., *Vocabulaire juridique*, Association Henri Capitant, Presses universitaires de France, Paris, 2016, p. 322).

29 — See, inter alia, the Danish, German, Croatian, Portuguese and Slovak versions.

30 — One and/or the other of these terms also appears, inter alia, in the French version of recitals 2, 4, 6, 8 and 9 and Articles 2, 3, 11 and 15 of the directive.

44. In addition, I note that the concept of ‘droit de conduire’ (‘right to drive’) was used in connection with driving licences, in particular in its French version, in Article 8(2) of Directive 91/439,³¹ which was replaced by Directive 2006/126, and that that right was usually presented as ‘stemming from a driving licence’ in the Court’s case-law on the interpretation of Directive 91/439.³²

45. However, the terminology used in other language versions of Article 13(2) of Directive 2006/126 may give rise to a different interpretation.

46. In particular, the Romanian version, which is relied on by Mr Popescu, contains the expression ‘drept de conducere acordat’, it being understood that the term ‘drept’ normally alludes to the right as such and not to the formal document attesting to a right granted and that, unlike the term ‘délivré’, which in French normally applies to a document, the Romanian word ‘acordat’ corresponds literally to the French words ‘accordé’ or ‘octroyé’, which can apply to both a right and a document.

47. The same holds for other language versions of that provision, which contain terms which seem to have a more neutral meaning, and therefore a more general scope, than the expression ‘droit de conduire délivré’ which appears in the French version.³³ It could follow that any entitlement or right to drive which has been recognised by a Member State, even without the support of a formal document, may fall under the prior entitlements reservation set out in Article 13(2).

48. Furthermore, recital 5 of Directive 2006/126, at least in its French version, does not clearly rule out the doubt raised in the present case, as it states that the directive ‘ne devrait pas porter atteinte aux droits de conduire existants ou obtenus avant sa date d’application’ (‘should not prejudice existing entitlements to drive granted or acquired before its date of application’). The two adjectives used in that wording may suggest that not only formally ‘acquired’ entitlements to drive should be maintained, but also entitlements ‘existing’ in fact before that date, which is a broader approach than is suggested by the term ‘délivré’ used in the French version of Article 13(2).

49. According to the Court’s settled case-law, the wording used in one language version of a provision of EU law cannot serve as the sole basis for the interpretation of that provision or be given priority over the other language versions in that regard. Provisions of EU law must be interpreted and applied uniformly in the light of the versions existing in all EU languages. Where there is divergence between the various language versions of an EU legislative text, as in the present case, the provision in question must be interpreted by reference to the purpose and general scheme of the rules of which it forms part.³⁴

50. In the light of the context and purposes of that provision, which I now intend to describe, I consider that the concept of ‘entitlement to drive granted’ within the meaning of Article 13(2) of Directive 2006/126 must be construed strictly and not be given a broad interpretation such that Member States are prohibited from requiring a person who enjoyed a non-formal entitlement to drive before 19 January 2013 to obtain a driving licence from that date.

31 — Under which ‘the Member States of normal residence *may apply* its national provisions on the *restriction, suspension, withdrawal or cancellation of the right to drive to the holder of a driving licence* issued by another Member State and, if necessary, exchange the licence for that purpose’ (my emphasis).

32 — See, inter alia, judgments of 26 June 2008, *Wiedemann and Funk* (C-329/06 and C-343/06, EU:C:2008:366, paragraphs 62, 64, 72 et seq. and 81 et seq.); of 20 November 2008, *Weber* (C-1/07, EU:C:2008:640, paragraph 41); of 19 February 2009, *Schwarz* (C-321/07, EU:C:2009:104, paragraphs 91, 97 and 98); and of 13 October 2011, *Apelt* (C-224/10, EU:C:2011:655, paragraph 31).

33 — In particular the Bulgarian, Estonian, Greek, English, Italian, Latvian, Hungarian, Maltese, Polish, Slovenian and Swedish versions.

34 — See, inter alia, judgments of 28 July 2016, *Edilizia Mastrodonato* (C-147/15, EU:C:2016:606, paragraph 29), and of 22 September 2016, *Breitsamer und Ullrich* (C-113/15, EU:C:2016:718, paragraph 58).

2. The interpretation advocated in the light of the objectives of Directive 2006/126 and the specific context of Article 13

51. First, it should be noted that the purpose of Directive 2006/126 was not to bring about full harmonisation of the national rules applicable to driving licences, but primarily to establish the minimum conditions under which licences may be issued,³⁵ even if the scope *ratione materiae* of the relevant rules of EU law was extended compared with the previous rules under Directive 91/439.³⁶ The single driving licence model provided for by those directives was intended progressively to replace the different types of driving licence which existed in the Member States and to permit mutual recognition of licences without formalities, in order to promote free movement of citizens within the Union.³⁷

52. The further harmonisation introduced by Directive 2006/126 was intended, among other objectives,³⁸ to ‘contribute to improving road traffic safety’, an imperative to which Directive 91/439 had already sought to respond.³⁹ With this in mind, among other innovations, Directive 2006/126 introduced the requirement of a driving licence for mopeds, which did not fall within the scope of Directive 91/439, in order in particular to ‘increase road safety as regards the youngest drivers who, according to the statistics, are the hardest hit by road accidents’.⁴⁰

53. It follows from the provisions of Directive 2006/126 that, with effect from 19 January 2013, the Member States were required to introduce a new category of driving licences for mopeds, to be granted to applicants who have passed a theory test and possibly, if the national legislature has decided to add these obligations, a practical test and/or a medical examination.⁴¹

54. It is undeniable that requiring moped riders to acquire theoretical knowledge and possibly practical skills, as stipulated by Directive 2006/126, allows a higher level of road safety. In addition, the fact that a document issued by an administrative authority is necessary makes it possible to record those who are entitled to drive and, if necessary, to take away that entitlement from those who commit serious highway offences.⁴² It is clear from the material in the file that the legislation at issue in the main proceedings was adopted precisely in order to improve road safety and that the reform seems to have actually had a positive impact on moped-related accidents in Romania, in the light of the statistics provided by the Romanian Government.⁴³

35 — See, in this regard, Maiani, F., et al., *Droit européen des transports*, Helbing & Lichtenhahn, Basle, 2nd edition, 2013, p. 87.

36 — See, inter alia, recitals 2, 3, 8, 9, 16 and 18 of Directive 2006/126.

37 — See the first and second recitals of Directive 91/439, the latter stating that ‘the first step in this direction was taken with the First Council Directive 80/1263/EEC of 4 December 1980 on the introduction of a Community driving licence ([OJ 1980 L 375, p. 1])’. With regard to developments in this area, see, inter alia, p. 56 et seq. of the Report of the European Parliament of 3 February 2005 on the Commission’s proposal which led to the adoption of Directive 2006/126 ((A6-0016/2005), ‘the Parliament report of 3 February 2005’).

38 — Directive 2006/126 also sought to achieve the following two other main objectives: ‘reducing the possibilities of [driving licence] fraud’ and ‘guaranteeing the free movement of citizens’ (see the explanatory memorandum for the Commission proposal of 21 October 2003 which led to the adoption of Directive 2006/126, COM(2003) 621 final, pp. 6 and 7, and recitals 2 and 17 of that directive).

39 — See, inter alia, the first, fourth and sixth recitals of Directive 91/439. The objective of improving ‘road traffic safety’ has repeatedly been taken into consideration by the Court in its case-law on the interpretation of that directive (see, inter alia, judgments of 15 September 2005, *Commission v Germany*, C-372/03, EU:C:2005:551, paragraph 28, and of 19 February 2009, *Schwarz*, C-321/07, EU:C:2009:104, paragraphs 79, 90 and 96).

40 — As is stated in recital 13 of Directive 2006/126. See also recital 16 of that directive and the detailed explanations in the explanatory memorandum for the proposal for a directive (COM(2003) 621 final, p. 5 and p. 14, paragraphs 39 and 40).

41 — In accordance with the requirements set out in Article 7(1)(b) of Directive 2006/126, under which, in respect of mopeds, it is necessary to pass a theory test in order to obtain a driving licence, but Member States have the option also to require a test of skills and behaviour which can be distinctive for tricycles and quadricycles, and a medical examination. See also the explanatory memorandum for the proposal for a directive (COM(2003) 621 final, p. 16, paragraph 52).

42 — See also, to that effect, footnote 19 of this Opinion.

43 — See the justifications mentioned in point 27 of this Opinion and the written observations of the Romanian Government, which state that ‘after the amendment of the rules on riding mopeds on the public highway, 316 road accidents involving mopeds were recorded in 2013, compared with 1 087 accidents in 2008, 1 104 in 2009, 973 in 2010, 977 in 2011 and 906 in 2012’ and that ‘the number of fatalities also fell in 2013, that is, 41 fatalities compared with 168 in 2008, 143 in 2009, 126 in 2010, 97 in 2011 and 107 in 2012’.

55. As the Romanian and the Slovak Governments state, if the interpretation proposed by Mr Popescu were to be accepted, this would run directly counter to one of the major objectives of Directive 2006/126, as such a view would amount to prohibiting Member States from tightening the conditions governing entitlement to ride mopeds on the public highway which existed before 19 January 2013, even though increasing the legal requirements in this way can clearly improve road safety.

56. Second, with regard more specifically to Article 13 of Directive 2006/126, the Court has already held, in the preliminary observations made in *Hofmann*, that that article, ‘headed “Equivalences between non-Community model licences”, is designed solely to govern the question of equivalences between rights acquired before the implementation of that directive and the various categories of driving licence defined’ by the directive.⁴⁴

57. The Court based its interpretation on the place occupied by Article 13 in the body of Directive 2006/126⁴⁵ and on the following considerations: ‘that analysis is confirmed by examining the travaux préparatoires of Directive 2006/126, from which it is apparent, as the Advocate General has pointed out in point 37 of his Opinion [⁴⁶], that Article 13(2) of that directive was added at the initiative of the European Parliament, which justified the addition stating that *the replacement of old driving licences was not, under any circumstances, to result in the loss or restriction of acquired rights* with regard to the authorisation to drive different categories of vehicle’.⁴⁷

58. In the present case the Romanian Government relied on the Parliament’s justification to infer, rightly in my view, that Article 13(2) refers solely to rights acquired before 19 January 2013 which were embodied in a *driving licence* or an equivalent document and not to the situation where, before that date, a power-driven vehicle could be *used on the public highway without holding a driving licence*, as was the case with mopeds or vehicles treated as such in Romania before the entry into force of Law No 203/2012. This proposed approach is, in my view, confirmed by other material in the *travaux préparatoires* for Directive 2006/126.⁴⁸

59. Aside from the origin of Article 13 of the directive, the origin of recital 5 also offers useful guidance and militates in favour of such an interpretation. It was also the Parliament that proposed the insertion of a recital under which ‘*existing rights* relating to the entitlement to drive different classes of vehicle *will not be restricted by this exchange of existing driving licences*’,⁴⁹ referring to the

44 — Judgment of 26 April 2012 (C-419/10, EU:C:2012:240, paragraph 41). I note that those categories are both established and defined in Article 4 of that directive.

45 — Judgment of 26 April 2012, *Hofmann* (C-419/10, EU:C:2012:240, paragraph 39), where it is stated, in connection with the subject matter of that case, that that place ‘demonstrates that the said Article 13(2) refers not to measures restricting, suspending or withdrawing a driving licence but only to acquired rights for the driving of vehicles in particular categories’.

46 — In his Opinion in *Hofmann* (C-419/10, EU:C:2011:723), Advocate General Bot referred to amendment 13 proposed in the Parliament report of 3 February 2005. The justification cited for that amendment concerns ‘Article 3, paragraph 2b (new)’ (see p. 11 of the report), the third subparagraph of which corresponds in essence to Article 13(2) of Directive 2006/126. The explanatory statement for that report sets out the reasons for the amendment, relating to ‘the exchange of those older driving licence types already in circulation’ in the Member States, and states that ‘the right to drive certain classes of vehicle is not affected’ by the new provision (p. 58).

47 — Judgment of 26 April 2012, *Hofmann* (C-419/10, EU:C:2012:240, paragraph 42), my emphasis.

48 — See, in particular, Article 3(4) of the Position of the Parliament adopted at first reading on 23 February 2005 (P6_TC1-COD(2003)0252, OJ 2005 C 304 E, p. 135) and the Recommendation for second reading from the Parliament’s Committee on Transport and Tourism of 27 November 2006 (A6-0414/2006), the explanatory statement for which expressly indicates, in paragraph 2.4, that ‘*entitlements obtained* before the [future Directive 2006/126] enters into force will be unaffected (Article 13(2))’ (my emphasis).

49 — The exchange must take place by a time limit laid down in Article 3(3) of Directive 2006/126, which requires that ‘all driving licences issued or in circulation fulfil all the requirements of this Directive’ by 19 January 2013.

justification given for the abovementioned addition of what would become paragraph 2 of Article 13.⁵⁰ Moreover, in the light of the immediately preceding recital,⁵¹ there is a clear link between respect for acquired entitlements which is mentioned in recital 5 and pre-existing driving licences which have to be exchanged for the single European driving licence model.⁵²

60. The actual heading of Article 13, which refers expressly to ‘non-Community model [driving] licences’, and the wording of paragraph 1 thereof read in the light of that heading⁵³ confirm the Romanian Government’s view that, in adopting paragraph 2 of that article, the legislature’s aim was that the amendment of the Community legislation, standardising driving licence models and categories of licence, did not affect *entitlements acquired by persons who had obtained a driving licence before 19 January 2013*, and only by such persons.

61. This analysis of the context of paragraph 2 is confirmed by the content of the Commission’s decisions concerning equivalences between categories of driving licences issued by the Member States before the implementation of Directive 2006/126 and the harmonised categories of licences as defined in Article 4 thereof.⁵⁴

62. It follows from the foregoing that the principle of protection of acquired entitlements, which is implicitly relied on by Mr Popescu, cannot be applied to him, as the only entitlements which are protected by Article 13(2) of Directive 2006/126 are those stemming from driving licences granted by Member States before 19 January 2013, and he was not in possession of a driving licence before that date.

63. Moreover, even if a situation like that of Mr Popescu were considered to fall under Article 13(2), I concur with the Slovak Government and the Commission that that provision envisages a simple *possibility* for the Member States to continue to recognise entitlements to drive which they had granted before 19 January 2013. It merely states that Directive 2006/126 is not intended to prejudice those entitlements, which thus remain subject to the domestic laws that were applicable before that date, pending any reform at national level.

64. It would be contrary to the abovementioned objectives of Directive 2006/126⁵⁵ to consider national legislatures to be required to maintain in force indefinitely entitlements to drive on the public highway which have become obsolete. In my view, entitlements to drive acquired at a certain time cannot be immutable, as their limitation, or even abolition, may be essential, in particular for reasons relating to road safety. The Member States must, in my opinion, be able to amend their rules in order to align them with the provisions of the directive, including for the past if they deem it necessary.

65. Consequently, I consider that the provisions of Directive 2006/126, in particular Article 13(2) in conjunction with recital 5 of the directive, must be interpreted as not precluding national legislation such as that at issue in the main proceedings.

50 — See amendment 3, p. 6, of the Parliament report of 3 February 2005; my emphasis.

51 — According to recital 4 of Directive 2006/126, ‘in order to prevent the single European driving licence model from becoming an additional model to the 110 already in circulation, Member States should take all necessary measures to issue this single model to all licence holders’.

52 — See also recitals 4 and 5 of the Position of the Parliament adopted at first reading on 23 February 2005, which state that ‘in all Member States the old driving licences should be exchanged to prevent the single European model from becoming an additional European model’ and that ‘existing rights relating to entitlement to drive different classes of vehicle should not be restricted by this exchange of existing driving licences’.

53 — In view of the heading of Article 13, it is logical, in my view, that the expression ‘entitlements obtained before the implementation of this Directive’, which is contained in the first subparagraph of paragraph 1, refers to entitlements stemming from ‘non-Community model [driving] licences’, as opposed to the ‘Community model driving licences’ mentioned in Article 1 of Directive 2006/126 and included in Annex I.

54 — See, inter alia, recitals 1 to 3 of the Commission Decisions on equivalences between categories of driving licences 2013/21/EU of 18 December 2012 (OJ 2013 L 19, p. 1) and 2014/209/EU of 20 March 2014 (OJ 2014 L 120, p. 1).

55 — See point 52 of this Opinion.

V – Conclusion

66. In the light of the above considerations, I propose that the Court answer the question referred for a preliminary ruling by the Înalta Curte de Casație și Justiție (High Court of Cassation and Justice, Romania) as follows:

The provisions of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences, more specifically Article 13(2) in conjunction with recital 5 of the directive, must be interpreted as not precluding legislation of a Member State from requiring persons who are in possession of a document which authorised them to ride mopeds on the public highway before 19 January 2013 to obtain a driving licence, by undergoing tests similar to those required for other motor vehicles, in order to be able to continue to ride mopeds after that date.