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2025/0033 (NLE)

Proposal for a

## **COUNCIL DECISION**

**on the position to be taken on behalf of the European Union in the Group of Experts on the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR) and in the Working Party on Road Transport of the United Nations Economic Commission for Europe as regards a proposal to align the AETR with the main recent amendments to Regulation (EC) No 561/2006**

## **EXPLANATORY MEMORANDUM**

### **1. SUBJECT MATTER OF THE PROPOSAL**

This proposal concerns the decision establishing the position to be taken on the Union's behalf in the Group of Experts on the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR) of the United Nations Economic Commission for Europe (UNECE) and in the UNECE Working Party on Road Transport (SC.1), in connection with the envisaged adoption of amendments to align the AETR with Union legislation following the adoption of amendments to Regulation (EC) No 561/2006<sup>1</sup> via Regulations (EU) 2020/1054<sup>2</sup> and (EU) 2024/1258<sup>3</sup>, as well Commission Delegated Regulation (EU) 2022/1012 which supplements Article 8a(2) of Regulation (EC) No 561/2006, which is one of the provisions introduced by Regulation (EU) 2020/1054.

### **2. CONTEXT OF THE PROPOSAL**

#### **2.1. The European Agreement concerning the work of crews engaged in international road transport (AETR)**

The AETR aims to harmonise the legislative framework of Contracting Parties to the AETR as regards driving and rest times for professional drivers and the corresponding technical requirements for the construction and installation of the recording equipment used in vehicles (the tachograph). The AETR entered into force on 5 January 1976. It has subsequently been amended. The most recent amendments relating to driving and rest times or tachographs were adopted on 20 September 2010.

All Member States are parties to the AETR<sup>4</sup>.

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<sup>1</sup> Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85, (OJ L 102, 11.4.2006, p. 1, ELI: <http://data.europa.eu/eli/reg/2006/561/oj>)

<sup>2</sup> Regulation (EU) 2020/1054 of the European Parliament and of the Council of 15 July 2020 amending Regulation (EC) No 561/2006 as regards minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods and Regulation (EU) No 165/2014 as regards positioning by means of tachographs, (OJ L 249, 31.7.2020, p. 1, ELI: <http://data.europa.eu/eli/reg/2020/1054/oj>)

<sup>3</sup> Regulation (EU) 2024/1258 of the European Parliament and of the Council of 24 April 2024 amending Regulation (EC) No 561/2006 as regards minimum requirements on minimum breaks and daily and weekly rest periods in the occasional passenger transport sector and as regards Member States' power to impose penalties for infringements of Regulation (EU) No 165/2014 committed in another Member State or in a third country, (OJ L, 2024/1258, 2.5.2024, ELI: <http://data.europa.eu/eli/reg/2024/1258/oj>)

<sup>4</sup> Austria (ratified on 11/6/1975), Belgium (ratified on 30/12/1977), Bulgaria (ratified on 12/5/1995), Croatia (ratified on 3/8/1992), Cyprus (ratified on 5/9/2003), Czechia (ratified on 22/6/1993), Denmark (ratified on 30/12/1977), Estonia (ratified on 3/5/1993), Finland (ratified on 16/2/1999), France (ratified on 9/1/1978), Germany (ratified on 9/7/1975), Greece (ratified on 11/1/1974), Hungary (ratified on 22/10/1999), Ireland (ratified on 28/8/1979), Italy (ratified on 28/12/1978), Latvia (ratified on 14/1/1994), Lithuania (ratified on 3/6/1998), Luxembourg (ratified on 30/12/1977), Malta (ratified on 24/9/2004), Netherlands (ratified on 30/12/1977), Poland (ratified on 14/7/1992), Portugal (ratified on 20/9/1973), Romania (ratified on 8/12/1994), Slovakia (ratified on 28/5/1993), Slovenia (ratified on 6/8/1993), Spain (ratified on 3/1/1993) and Sweden (ratified on 24/8/1973).

## **2.2. The Group of Experts on the AETR and the Working Party on Road Transport**

The Group of Experts on the AETR is a technical group set up by the Inland Transport Committee of the UNECE whose objective is to develop proposals to amend the AETR. According to the Decision establishing the Group of Experts on AETR, the European Union can participate in the Expert Group<sup>5</sup>. The Commission therefore represents the Union in this Expert Group.

The Working Party on Road Transport (SC.1) is a group set up by the Inland Transport Committee to promote the development and facilitation of international transport by road. This includes harmonising and simplifying the rules and requirements related to road transport. Only contracting parties to the AETR participate in the Working Party on Road Transport as Members. The European Union is invited as an Observer to the Working Party and is thus represented by the Commission or the Delegation of the European Union to the UN and other international organisations in Geneva.

Proposals to amend the AETR are generally first tabled, examined, and endorsed in the Expert Group and then, submitted to the UNECE Working Party on Road Transport (SC.1) for endorsement. If consensus on certain amendments to the AETR is reached in both groups, a Contracting Party of the AETR formally tables the amendment to the United Nations Secretary-General, in accordance with Article 21 of the AETR. Once the submission to amend the AETR has been notified to them by the United Nations Secretary-General, Contracting Parties have 6 months to object to the amendment. The amendment is deemed to be adopted if no Contracting Party objects to the amendment within that deadline.

The bodies set up in UNECE (the Expert Group on AETR and the Working Party on Road Transport) provide a forum where amendments of the AETR are tabled, examined and endorsed, so as to prepare the formal submission of an amendment according to the AETR, and to avoid objections once an amendment is formally tabled to the United Nations Secretary-General. It is therefore appropriate to establish Union positions as regards decisions to be taken in the Expert Group and the UNECE Working Party on Road Transport.

## **2.3. The envisaged act to be considered by the Group of Experts on the AETR and the Working Party on Road Transport**

In June 2025, during its 38<sup>th</sup> planned session, or at subsequent sessions, the group of Experts on AETR would, based on the Union proposal attached to this proposal, consider and develop proposals for amending the AETR Agreement in line with the most recent amendments to Regulation (EC) No 561/2006. These cover new provisions relating to the scope of the Agreement, the conditions under which it is possible to take consecutive reduced weekly rests, a ban on taking the regular weekly rest in the cabin, the rules under which the driver is to return to the employer's establishment or to the drivers' place of residence, the conditions under which it is possible to have rest periods on a ferry or train, other possible derogations for drivers engaged in the occasional transport of passengers, and the principle and specifications of safe and secure parking areas (the envisaged act).

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<sup>5</sup> Decision on matters relating to Inland Transport Committee: Establishment of a Group of Experts on European Agreement Concerning Work of Crews of Vehicles Engaged in International Road Transport (AETR), ECE/EX/2011/L.16, paragraph 3: "In accordance with the Guidelines, participation in the Expert Group would be open to all ECE member States, all AETR Contracting Parties and the European Union (...)"

The purpose of the envisaged act is to enhance working conditions of drivers, fair competition between operators, and in turn to improve road safety. The Group of Experts will be tasked with examining the proposal in view of endorsing proposed amendments and recommending them for endorsement by the Working Party on Road Transport. The Working Party on Road Transport could also provide guidance and instructions to the Group of Experts in case this is necessary. Once the Working Party on Road Transport has informally endorsed the proposals, a Contracting Party would then need to table such amendments to the United Nations Secretary-General.

The envisaged act, if adopted, would become binding on the parties in accordance with Article 21(6) of the Agreement, which provides: ‘Any amendment deemed to be accepted shall enter into force three months after the date on which it was deemed to be accepted.’

### **3. POSITION TO BE TAKEN ON THE UNION'S BEHALF**

The AETR agreement was last substantially amended in 2010 and requires a more general update. Since this amendment, the Union has adopted the following acts within its own legal scope on the harmonisation of certain social legislation relating to international road transport within Member States: Regulations (EU) 165/2014<sup>6</sup>, (EU) 2020/1054, and (EU) 2024/1258.

The amendments necessary to transpose the main provisions of Regulation (EU) No 165/2014, in particular the introduction of the smart tachograph, have already tabled to the above-mentioned Forums by the Union<sup>7</sup>, without it being possible to reach a unanimous agreement for the time being.

On 4 October 2024, the European Court of Justice, in Joined Cases C-541/20 to C-555/20<sup>8</sup>, upheld the provisions of Regulation (EU) 2020/1054.

As a result, for the Union to comply with Article 2(3) of Regulation (EC) 561/2006, it is necessary for the Union to propose an update to the provisions of the AETR Agreement according to the most recent standards adopted in the Union on the subject matter.

The proposed position is in line with the Union’s exclusive external competence in the field of social legislation in road transport, in particular in accordance with Article 23 of Regulation (EC) No 561/2006.

In its judgment of 31 March 1971 in Case 22/70 *AETR*<sup>9</sup>, the Court of Justice of the European Union recognised that the area of the work of crews of vehicles engaged in road transport is an exclusive external competence of the Union. This competence has been exercised since then in numerous legislative acts adopted by the Union co-legislators, including Regulations

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<sup>6</sup> Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport, OJ L 60, 28.2.2014, p. 1.

<sup>7</sup> Most recently by Council Decision (EU) 2021/366 of 22 February 2021 on the position to be adopted, on behalf of the European Union, in the Group of Experts on the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR) and in the Working Party on Road Transport of the United Nations Economic Commission for Europe, (OJ L 70, 01/03/2021, p. 12, ELI: <http://data.europa.eu/eli/dec/2021/366/oj>), reproduced in the UNECE under ECE/TRANS/SC.1/GE.21/2021/2.

<sup>8</sup> ECLI:EU:C:2024:818.

<sup>9</sup> Judgment of the Court of 31 March 1971, *Commission v. Council*, ECLI:EU:C:1971:32.

(EC) No 561/2006 and (EU) No 165/2014. Since the subject matter of the AETR falls within the scope of Regulation (EU) No 165/2014, the power to negotiate and conclude the AETR and its modifications lies exclusively with the Union pursuant to article 3(2) of Treaty on the Functioning of the European Union.

## **4. LEGAL BASIS**

### **4.1. Procedural legal basis**

#### *4.1.1. Principles*

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing *‘the positions to be adopted on the Union’s behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.’*

Article 218(9) TFEU applies regardless of whether the Union is a member of the body or a party to the agreement<sup>10</sup>.

Where an area of law falls within a competence of the European Union, the fact that the European Union did not take part in the international agreement in question does not prevent it from exercising that competence by establishing, through its institutions, a position to be adopted on its behalf in the body set up by that agreement, in particular through the Member States which are party to that agreement acting jointly in its interest<sup>11</sup>.

The concept of *‘acts having legal effects’* includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are *‘capable of decisively influencing the content of the legislation adopted by the EU legislature’*<sup>12</sup>.

#### *4.1.2. Application to the present case*

The Group of Experts on the AETR and the Working Party on Road Transport (SC.1) are bodies set up by the Inland Transport Committee of the UNECE.

The proposed amendments constitute acts having legal effects. The envisaged amendments, if then adopted, would be binding under international law in accordance with Article 21(6) of the AETR.

The envisaged act does not supplement or amend the institutional framework of the Agreement.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

### **4.2. Substantive legal basis**

#### *4.2.1. Principles*

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the

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<sup>10</sup> Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraph 64.

<sup>11</sup> Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraph 52.

<sup>12</sup> Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

#### *4.2.2. Application to the present case*

The main objective and content of the envisaged act relate to transport policy.

Therefore, the substantive legal basis of the proposed decision is Article 91 TFEU.

#### **4.3. Conclusion**

The legal basis of the proposed decision should be Article 91 TFEU, in conjunction with Article 218(9) TFEU.

Proposal for a

## COUNCIL DECISION

**on the position to be taken on behalf of the European Union in the Group of Experts on the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR) and in the Working Party on Road Transport of the United Nations Economic Commission for Europe as regards a proposal to align the AETR with the main recent amendments to Regulation (EC) No 561/2006**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR)<sup>13</sup> entered into force on 5 January 1976. The Union has exclusive competence on the subject-matter covered by the AETR<sup>14</sup>.
- (2) Pursuant to Article 2(3), second subparagraph of Regulation (EC) No 561/2006 of the European Parliament and of the Council<sup>15</sup>, the provisions of the AETR should be aligned with those of that Regulation. Regulations (EU) 2020/1054<sup>16</sup> and (EU) 2024/1258<sup>17</sup> of the European Parliament and of the Council both amended Regulation (EC) No 561/2006. In addition, Commission Delegated Regulation (EU) 2022/1012 supplements Article 8a(2) of Regulation (EC) No 561/2006, which is one of the provisions introduced by Regulation (EU) 2020/1054. Therefore, the Union should propose to amend the AETR to reflect the amendments introduced by Regulations (EU) 2020/1054 and (EU) 2024/1258 and supplemented by Delegated Regulation (EU) 2022/1012. These cover new provisions relating to the scope of the Agreement, the conditions under which it is possible to take consecutive reduced weekly rests, a

<sup>13</sup> [OJ L 95, 8.4.1978, p. 1.](#)

<sup>14</sup> Judgment of the Court of Justice of 31 March 1971, *Commission v. Council (AETR)*, 22/70, EU:C:1971:32, para. 30-31.

<sup>15</sup> Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85, OJ L 102, 11.4.2006, p. 1.

<sup>16</sup> Regulation (EU) 2020/1054 of the European Parliament and of the Council of 15 July 2020 amending Regulation (EC) No 561/2006 as regards minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods and Regulation (EU) No 165/2014 as regards positioning by means of tachographs, OJ L 249, 31.7.2020, p. 1.

<sup>17</sup> Regulation (EU) 2024/1258 of the European Parliament and of the Council of 24 April 2024 amending Regulation (EC) No 561/2006 as regards minimum requirements on minimum breaks and daily and weekly rest periods in the occasional passenger transport sector and as regards Member States' power to impose penalties for infringements of Regulation (EU) No 165/2014 committed in another Member State or in a third country, OJ L, 2024/1258, 2.5.2024, ELI: <http://data.europa.eu/eli/reg/2024/1258/oj>.

ban on taking the regular weekly rest in the cabin, the rules under which the driver is to return to the employer's establishment or to the drivers' place of residence, the conditions under which it is possible to have rest periods on a ferry or train, other possible derogations for drivers engaged in the occasional transport of passengers, and the principle and specifications of safe and secure parking areas (the envisaged act).

- (3) Pursuant to Article 21 of the AETR, proposals for amendments to the AETR may be submitted by any Contracting Party to the Secretary-General of the United Nations (UN). Before submission to the Secretary-General of the UN, the proposals are generally first tabled, examined and endorsed in the Working Party on Road Transport (SC.1) of the UN Economic Commission for Europe (UNECE). A Group of Experts on the AETR has been established by UNECE in the framework of the AETR. That Group is a body empowered to develop and submit proposals to amend the AETR to the UNECE Working Party on Road Transport. The Union, on the basis of this decision, will propose that the Group of Experts on the AETR, during its planned 38<sup>th</sup> session in June 2025, and at subsequent sessions, and the UNECE Working Party on Road Transport, during its planned 120<sup>th</sup> session in October 2025, and at subsequent sessions, discuss amendments to the AETR relating to the improvement of working conditions for drivers engaged in international road transport, as stemming from the recent amendments to Regulation (EC) No 561/2006 introduced by Regulations (EU) 2020/1054 and (EU) 2024/1258 and Delegated Regulation (EU) 2022/1012.
- (4) It is appropriate to establish the position to be taken on the Union's behalf in the Group of Experts on the AETR and in the Working Party on Road Transport, as the amendment proposals which they will be called to develop and endorse would be binding under international law in accordance with Article 21(6) of the AETR.
- (5) Member States should not object to a notification by the United Nations Secretary-General under Article 21(1) of the AETR, of proposed amendments which are contained in the Annex to this Decision. If a notification by the United Nations Secretary-General is not limited to proposed amendments contained in the Annex to this Decision, Member States should not object to those proposed amendments which are contained in the Annex to this Decision.
- (6) The Union's position in the Group of Experts of the AETR is to be expressed by the Commission, and the Union's position in the Working Party on Road Transport is to be expressed by the Member States acting jointly in the interest of the Union.

HAS ADOPTED THIS DECISION:

#### *Article 1*

The position to be taken on the Union's behalf in subsequent sessions of the UNECE Group of Experts on the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR) and of the Working Party on Road Transport (SC.1) in relation to a proposal to align the AETR with the recent amendments to Regulation (EC) No 561/2006 introduced by Regulations (EU) 2020/1054 and (EU) 2024/1258 and with Delegated Regulation (EU) 2022/1012, is set out in the Annex to this Decision.

Formal and minor changes to the position referred to in the first paragraph may be agreed without a further decision of the Council.



## *Article 2*

The position referred to in Article 1 shall be expressed by the Commission in the Group of Experts on the AETR and by the Member States acting jointly in the interest of the Union, in the UNECE Working Party on Road Transport.

## *Article 3*

Where any proposed amendment laid out in the Annex to this Decision has been endorsed by the UNECE Working Party on Road Transport, the Member States acting jointly in the interest of the Union shall submit it to the United Nations Secretary-General, in accordance with Article 21(1) of the AETR.

Member States shall not object to a notification by the United Nations Secretary-General under Article 21(1) of the AETR of proposed amendments which are contained in the Annex to this Decision.

## *Article 4*

This Decision is addressed to the Commission and to the Member States.

Done at Brussels,

*For the Council  
The President*