EUROPEAN
COMMISSION

Brussels, 20.5.2021
COM(2021) 243 final

2021/0125 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the World Forum for Harmonisation of Vehicle Regulations of the United Nations Economic Commission for Europe as regards the proposals for modifications to UN Regulations Nos 13, 13-H, 24, 30, 41, 49, 79, 83, 95, 101, 124, 129, 134, 137 and 157, and the proposals for modifications to Global Technical Regulations Nos 4 and 9

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns a decision establishing the position to be taken on the Union's behalf in the World Forum for Harmonisation of Vehicle Regulations of the United Nations Economic Commission for Europe (WP.29) as regards the adoption of modifications to existing UN Regulations and existing UN Global Technical Regulations.

2. CONTEXT OF THE PROPOSAL

2.1. The 1958 Agreement and the 1998 Agreement

The Agreement of the United Nations Economic Commission for Europe ("UNECE") concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions ("Revised 1958 Agreement") and the Agreement concerning the establishing of Global Technical Regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles ("Parallel Agreement") aim to develop harmonised requirements intended to remove technical barriers to trade in motor vehicles between the UNECE Contracting Parties and to ensure that such vehicles offer a high level of safety and environmental protection. The Agreements entered into force for the EU on 24 March 1998 and 15 February 2000 respectively. They are both administered by the UNECE World Forum for Harmonisation of Vehicle Regulations (Working Party 29 or WP.29).

2.2. The World Forum for Harmonisation of Vehicle Regulations of the United Nations Economic Commission for Europe (UNECE) – Working Party 29 or WP. 29

WP.29 offers a unique framework for globally harmonized regulations on vehicles. WP.29 is a permanent working party in the institutional framework of the United Nations with a specific mandate and rules of procedure. It works as a global forum allowing open discussions on motor vehicle regulations and where the implementation of the Revised 1958 Agreement and the Parallel Agreement is being discussed. Any member country of the United Nations and any regional economic integration organization, set up by country members of the United Nations, may fully participate in the activities of WP.29 and may become a contracting party to the Agreements on vehicles administered by WP.29. The European Union is a party to these Agreements[1].

The meetings of UNECE WP.29 are held three times a year, i.e. in March, June and November. In each meeting session new UN Regulations, new UN Global Technical Regulations (UN GTRs), modifications to existing UN Regulations and Resolutions under the

[1] Council Decision 97/836/EC of 27 November 1997 with a view to accession by the European Community to the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions ('Revised 1958 Agreement') (OJ L 346, 17.12.1997, p. 78).
Council Decision 2000/125/EC of 31 January 2000 concerning the conclusion of the Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles ('Parallel Agreement') (OJ L 35, 10.2.2000, p. 12).

Revised 1958 Agreement and modifications to existing UN GTRs and Resolutions under the Parallel Agreement may be adopted in order to allow for technical progress. Prior to each WP.29 meeting these modifications are first discussed at technical level in dedicated subsidiary bodies of WP.29.

Subsequently, a vote takes place at WP.29 level (i.e. by a qualified majority of the Contracting Parties present and voting for the proposals under the Revised 1958 Agreement and by a consensus vote of the Contracting Parties present and voting for the proposals under the Parallel Agreement).

The position to be taken on behalf of the Union on the new Regulations and GTRs, their amendments, supplements and corrigenda, and Resolutions is established ahead of each WP.29 by a Council Decision under Article 218 (9) TFEU.

2.3. The envisaged act of WP.29

Between 22 and 24 June 2021, during its 184th session, WP.29 may adopt the proposals for modifications to UN Regulations Nos 13, 13-H, 24, 30, 41, 49, 79, 83, 95, 101, 124, 129, 134, 137 and 157, and the proposals for modifications to Global Technical Regulations Nos 4 and 9.

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

The WP.29 system strengthens international harmonization of vehicle standards. The 1958 Agreement plays a key role in this objective since EU manufacturers can operate to a common set of type approval Regulations in the knowledge that the product will be recognized by the Contracting Parties as being in conformity with its national legislation. This scheme, for instance, has allowed for Regulation (EC) No 661/2009 on the general safety of motor vehicles to repeal more than 50 EU Directives and replace them with the corresponding Regulations developed under the 1958 Agreement.

A similar approach is followed by Regulation (EU) 2018/858 of the European Parliament and of the Council[2] which lays down administrative provisions and technical requirements for the type-approval and placing on the market of all new vehicles, systems, components and separate technical units. This Regulation incorporates regulations adopted under the Revised 1958 Agreement ('UN Regulations') in the EU type-approval system, either as requirements for type-approval or as alternatives to Union legislation.

Once the proposals for modifications to or new UN Regulations are adopted by WP.29, and once these acts are notified to the Contracting Parties by the Executive Secretary of UNECE, then after six months, in the absence of objections by the Contracting Parties constituting a blocking minority, the acts may finally enter into force and may be transposed in the applicable national rules of each Contracting Party. In the EU, the transposition is completed following the publication of these acts in the Official Journal of the EU.

It is, hence, necessary to define the Union's position on the following acts:

– the proposals for modifications to UN Regulations Nos 13, 13-H, 24, 30, 41, 49, 79, 83, 95, 101, 124, 129, 134, 137 and 157, which relate to the update of the provisions

[2] Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018, p. 1)..

on heavy vehicle braking, braking for M1 and N1 vehicles, visible pollutants and measurement of power of compression ignition engines, tyres for passenger cars and their trailers, noise emissions of motorcycles, emissions of compression ignition and positive ignition (LPG and CNG) engines for heavy duty vehicles, steering equipment, emissions of M1 and N1 vehicles, lateral collision, CO2 emission/fuel consumption, replacement wheels for passenger cars, enhanced child restraint systems, hydrogen and fuel cell vehicles, frontal impact with focus on restraint systems and automated lane keeping system;

– the proposals for modifications to Global Technical Regulations (UN GTR) Nos 4 and 9 relating to world-wide harmonized heavy-duty certification procedure and pedestrian safety;

submitted for vote in the June 2021 WP.29 meeting that will take place between 22 and 24 June 2021. In addition, it is necessary to define the Union's position on:

– the proposal for the master document for the new assessment/test method for automated driving (NATM);

– the proposal for request for authorization to develop a new UN GTR on durability of after treatment devices for two- and three- wheeled motor vehicles.

The Union should support the above acts because they are in line with the Union's internal market policy as regards the automotive industry and are consistent with Union transport, climate and energy policies.

All these acts have a very positive impact on automotive EU competitiveness and international trade. The vote in favour of these acts will foster technological progress, offer advantages of economies of scale, prevent fragmentation of the internal market and ensure the automotive standards are applied equally across the Union.

The proposal for amendments to UN Regulation No 79[3] (steering equipment) is not ready for a vote in the June 2021 WP.29 meeting and will be further discussed in the dedicated subsidiary bodies of UNECE WP.29.

External expertise is not relevant in the case of this proposal. It will however be reviewed by the Technical Committee on Motor Vehicles.

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.'

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

[3] Proposal for a new 04 series of amendments to UN Regulation No 79

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'.[4]

4.1.2. Application to the present case

WP.29 is a body where the implementation of the Revised 1958 Agreement and the Parallel Agreement is being discussed between the UNECE Contracting Parties.

The acts which WP.29 is called upon to adopt constitute acts having legal effects.

The UN Regulations within the envisaged act will be binding on the Union and together with UN GTRs and Resolutions capable of decisively influencing the content of EU legislation in the field of vehicle type approval.

The envisaged acts do 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 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 the approximation of laws. Therefore, the substantive legal basis of the proposed decision is Article 114 TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be Article 114 TFEU, in conjunction with Article 218(9) TFEU.

[4] 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.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) By Council Decision 97/836/EC[1], the Union acceded to the Agreement of the United Nations Economic Commission for Europe (UNECE) concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of those prescriptions ('Revised 1958 Agreement'). The Revised 1958 Agreement entered into force on 24 March 1998.

(2) By Council Decision 2000/125/EC[2], the Union acceded to the Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts, which can be fitted and/or be used on wheeled vehicles ('Parallel Agreement'). The Parallel Agreement entered into force on 15 February 2000.

(3) Regulation (EU) 2018/858 of the European Parliament and of the Council[3] lays down administrative provisions and technical requirements for the type-approval and placing on the market of all new vehicles, systems, components and separate technical units. This Regulation incorporates regulations adopted under the Revised 1958 Agreement ('UN Regulations') in the EU type-approval system, either as requirements for type-approval or as alternatives to Union legislation.

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[1] Council Decision 97/836/EC of 27 November 1997 with a view to accession by the European Community to the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions ('Revised 1958 Agreement') (OJ L 346, 17.12.1997, p. 78).

[2] Council Decision 2000/125/EC of 31 January 2000 concerning the conclusion of the Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles ('Parallel Agreement') (OJ L 35, 10.2.2000, p. 12).

[3] Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018, p. 1).

(4) Pursuant to Article 1 of the Revised 1958 Agreement and Article 6 of the Parallel Agreement, the UNECE World Forum for Harmonisation of Vehicle Regulations (UNECE WP.29) may adopt proposals for modifications to UN Regulations, UN Global Technical Regulations (UN GTRs) and UN Resolutions as well as proposals for new UN Regulations, UN GTRs and UN Resolutions concerning the approval of vehicles. Moreover, pursuant to those provisions, UNECE WP.29 may adopt proposals for authorisations to develop amendments to UN GTRs or to develop new UN GTRs and may adopt proposals for the extension of mandates for UN GTRs.

(5) UNECE WP.29, during the 184th session of the World Forum to be held between 22 and 24 June 2021, may adopt the proposals for modifications to UN Regulations Nos 13, 13-H, 24, 30, 41, 49, 79, 83, 95, 101, 124, 129, 134, 137 and 157, and the proposals for modifications to Global Technical Regulations Nos 4 and 9.

(6) It is appropriate to establish the position to be taken on the Union's behalf in UNECE WP.29, as regards the adoption of those proposals, as the UN Regulations will be binding on the Union and, together with the UN GTRs capable of decisively influencing the content of Union law in the field of vehicle type-approval.

(7) In the light of experience and technical developments, the requirements relating to certain elements or features covered by UN Regulations Nos 13, 13-H, 24, 30, 41, 49, 79, 83, 95, 101, 124, 129, 134, 137 and 157, need to be amended, corrected or supplemented.

(8) In addition, certain provisions in UN GTRs Nos 4 and 9 need to be amended.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union’s behalf in the 184th session of the UNECE World Forum for Harmonisation of Vehicle Regulations to be held between 22 and 24 June 2021 shall be to vote in favour of the proposals listed in the Annex to this Decision.

Article 2

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President