Council Decision (EU) 2018/1926 of 19 November 2018 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 of the United Nations Economic Commission for Europe

COUNCIL DECISION (EU) 2018/1926

of 19 November 2018

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 of the United Nations Economic Commission for Europe

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)[(1)] entered into force on 5 January 1976.

(2) A Group of Experts on AETR has been established by the United Nations Economic Commission for Europe (UNECE) in the framework of the AETR. That group is a body empowered to develop and submit proposals for amending the AETR to the UNECE Working Party on Road Transport.

(3) The Group of Experts on AETR is currently discussing amendments to the AETR, based on a Union proposal following, to that effect, a position on behalf of the Union adopted by Council Decision (EU) 2016/1877[(2)]. A further amendment to the AETR appears necessary in order to ensure that non-EU Contracting Parties to the AETR can participate in data exchange on driver cards based on harmonised security and data protection standards.

(4) Regulation (EU) No 165/2014 of the European Parliament and of the Council[(3)] requires Member States to interconnect their national electronic registers on driver cards through the Telematics Network for the Exchange of Information Concerning the Issuing of Tachograph Cards (TACHOnet) messaging system or, when using a compatible system, to ensure that exchange of electronic data with all other Member States is possible through the TACHOnet messaging system. TACHOnet is a platform for the exchange of information on driver cards between Member States, in order to ensure that drivers do not hold more than one driver card.

(5) In order to achieve a pan-European harmonisation in the field of electronic exchange of information on driver cards, it is necessary that TACHOnet be used as the single platform by all Contracting Parties to the AETR.

Changes to legislation: *There are currently no known outstanding effects for the Council Decision (EU) 2018/1926. (See end of Document for details)*

(6) The connection to the TACHOnet messaging system is currently carried out either directly through a Trans-European Services for Telematics between Administrations (TESTA) connection or indirectly through a Member State already connected to TESTA. As TESTA are services restricted to Member States and institutions of the Union, non-EU Contracting Parties to the AETR can only connect to TACHOnet indirectly.

(7) The Commission has recently assessed the indirect connections to the TACHOnet messaging system and concluded that they do not provide the same level of security as TESTA. In particular, there is not a sufficient guarantee about the authenticity, integrity and confidentiality of the information exchanged through indirect connections. Indirect connections to TACHOnet should therefore be replaced by a secure connection.

(8) eDelivery is a network of connection nodes for digital communications developed by the Commission, where every participant at national level becomes a node using standard transport protocols and security policies. eDelivery is a flexible tool that may be customised to each specific service.

(9) eDelivery makes use of widely implemented security technologies, such as public key infrastructure (PKI), in order to ensure the authenticity, integrity and confidentiality of the information exchanged. Access to TACHOnet of non-EU Contracting Parties to the AETR should be granted by means of eDelivery.

(10) The Contracting Parties to the AETR should follow a specific procedure to receive the digital certificates and the respective electronic keys granting access to TACHOnet.

(11) The connection to TACHOnet by means of eDelivery implies that the Contracting Parties to the AETR are required to ensure that the electronic keys and certificates granting access to the system are protected and cannot be used by non-authorised parties. The Contracting Parties to the AETR should also guarantee that keys covered by certificates having expired are not used anymore.

(12) It is necessary to guarantee the protection of personal data available to the parties through TACHOnet in accordance with the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data of 28 January 1981.

(13) National authorities connected to TACHOnet have the obligation to carry out the relevant technical implementations in order to ensure that TACHOnet operates according to high levels of performance. It is the task of the Commission to set up the tests confirming that those levels of performance are achieved and to implement them in coordination with the national competent authorities.

(14) In its judgment of 31 March 1971 in Case 22/70[(4)], the Court of Justice of the European Union recognised that the work of crews of vehicles engaged in road transport is an area that is an external competence of the Union. That competence has been exercised since then in numerous legal acts adopted by the Union, including Regulations (EC) No 561/2006[(5)] and (EU) No 165/2014 of the European Parliament and of the Council. Since the subject matter of the AETR falls within the scope of Regulation

(EC) No 561/2006, the power to negotiate and conclude any relevant agreement and modifications thereto lies exclusively with the Union.

(15) If accepted by the Group of Experts on AETR, the proposals made by the Contracting Parties may lead to an amendment of AETR, after a procedure for the revision of AETR is launched and concluded. Where those proposals are accepted by the Group of Experts on AETR, as a second step, the Union Member States as Contracting Parties to the AETR are under an obligation to cooperate in using the mechanism for the revision of the AETR, in line with the duty of sincere cooperation pursuant to Article 4(3) of the Treaty on European Union and subject to a Council decision in accordance with Article 218(6) of the Treaty on the Functioning of the European Union, as appropriate. The proposed amendments to the AETR will become effective only once the revision of the AETR is completed.

(16) It is appropriate to establish the position to be taken on the Union's behalf in the Group of Experts on AETR, as the amendment to the AETR will be binding on the Union.

(17) As the Union is not a Contracting Party to the AETR and its status does not allow it to communicate the proposed amendments, Member States, acting in the interest of the Union, should communicate the proposed amendments to the Group of Experts on AETR in the spirit of loyal cooperation in order to promote the achievement of the Union's objectives.

(18) The Union's position is to be expressed by its Member States that are members of the Group of Experts on AETR and of the UNECE Working Party on Road Transport, acting jointly,

HAS ADOPTED THIS DECISION:

Article 1

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) shall be in favour of the proposed amendments to the AETR as set out in the document attached to this Decision.

Article 2

The position referred to in Article 1 shall be expressed by the Member States of the Union that are Contracting Parties to the AETR, acting jointly.

Formal and minor changes to the position referred to in Article 1 may be agreed without requiring that position to be amended.

Article 3

This Decision shall enter into force on the day following that of its adoption.

Changes to legislation: *There are currently no known outstanding effects for the Council Decision (EU) 2018/1926. (See end of Document for details)*

Done at Brussels, 19 November 2018.

For the Council

The President

E. KÖSTINGER

***Changes to legislation:** There are currently no known outstanding effects for the Council Decision (EU) 2018/1926. (See end of Document for details)*

ATTACHMENT

NEW APPENDIX TO THE AETR

Appendix 4

TACHOnet specifications

1. **Scope and purpose**

1.1. This appendix sets out the terms and conditions regarding the connection of AETR Contracting Parties to TACHOnet through eDelivery.

1.2. Contracting Parties connecting to TACHOnet through eDelivery shall abide by the provisions laid down in this Appendix.

2. **Definitions**

(a) ‘Contracting party’ or ‘party’ means any Contracting party to the AETR;

(b) ‘eDelivery’ means the service developed by the European Commission making possible to transmit data between third parties by electronic means, providing evidence relating to the handling of the transmitted data, including proof of sending and receiving the data, and protecting transmitted data against the risk of any unauthorised alteration;

(c) ‘TACHOnet’ means the system for the electronic exchange of information on driver cards between contracting parties referred to in Article 31(2) of Regulation (EU) No 165/2014;

(d) ‘Central hub’ means the information system enabling the routing of TACHOnet messages between requesting and responding parties;

(e) ‘Requesting party’ means the contracting party emitting a TACHOnet request or a notification, which is then routed to the appropriate responding party by the central hub;

(f) ‘Responding party’ means the contracting party to whom the TACHOnet request or notification is addressed;

(g) ‘Card issuing authority’ or ‘CIA’ means the entity empowered by a contracting party for the issuing and management of tachograph cards.

3. **General responsibilities**

3.1. Neither contracting party may conclude agreements for the access to TACHOnet on behalf of another party or in any other way represent the other contracting party on the basis of this Appendix. Neither contracting party acts as the other contracting party's subcontractor in the operations referred to in this Appendix.

3.2. The contracting parties shall provide access to their national register on driver cards through TACHOnet, in the way and with the level of service set out in Sub-appendix 4.6.

3.3. The contracting parties shall notify each other without delay if they observe disturbances or errors within their domain of responsibility, which may endanger the fulfilling of the normal operation of TACHOnet.