

## **Letter from the Secretary-General of the Parliamentary Assembly of the Council of Europe to the Working Party on Automated/Autonomous and Connected Vehicles**

### **Background note on Human Rights and possible responses**

#### **I. Introduction**

##### **A. background**

1. This document is providing some background information on **GRVA-10-07**, which reproduces the letter sent by the Secretary General of the Parliamentary Assembly of the Council of Europe (PACE) aimed at informing GRVA about Resolution 2346, dated 27 October 2020.

2. The letter has been shared with AC.2 in November 2020. AC.2 requested the secretariat to provide some background information to allow a discussion in March 2021. AC. 2 discussed at its March 2021 session on possible ways to respond to the letter and provided guidance to GRVA. AC.2 invited GRVA to follow up (ECE/TRANS/WP.29/1157, para. 12)

##### **B. Council of Europe – short presentation**

3. The Council of Europe (CoE) is an International Governmental Organization that addresses among others Human Rights on the European Continent. It has 47 member States (including 27 European Union member States) and 6 observer States (incl. Canada, Japan and the United States of America). It oversees around 220 Council of Europe's treaties. The bodies of the CoE include the Council of Ministers (statutory decision-making body), the PACE (and sub committees) and the European Court of Human Rights.

##### **C. Process leading to the PACE Resolution**

4. In March 2019 a group of members of the PACE submitted to the PACE a motion for a resolution on the legal aspects of autonomous vehicles (Doc. 14839<sup>1</sup>). This motion for a resolution was referred to the PACE Committee on Legal Affairs and Human Rights (LAHR) in April 2019. The outcome of the process that was initiated through the motion for a resolution was the report of the PACE Committee on LAHR titled “Legal aspects of “autonomous” vehicles” (Doc. 15143<sup>2</sup>) of 22 September 2020, and a Resolution (No. 2346 (2020)<sup>3</sup>) and Recommendation (No. 2187 (2020)<sup>4</sup> of the PACE, both carrying that same title, of 22 October 2020.

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<sup>1</sup><https://pace.coe.int/pdf/f83612a47e0cf33c292bd0973e0764e1f8602e8e3326667a8259ffe25682ae848428feba12/doc.%2014839.pdf>

<sup>2</sup><https://pace.coe.int/pdf/81c706d46f6dca0401529a110b84e6f3d9078ebb3326667a8259ffe25682ae848428feba12/doc.%2015143.pdf>

<sup>3</sup><https://pace.coe.int/pdf/63e872965b42ccbd03148f1ed0e564906294ef073326667a8259ffe25682ae848428feba12/resolution%202346.pdf>

<sup>4</sup><https://pace.coe.int/pdf/4651e9af8e7fce40fe34cde721a1241080b370a93326667a8259ffe25682ae848428feba12/recommendation%202187.pdf>

## **D. PACE Resolution 2346 (2020)**

5. The Secretary General of the PACE informed GRVA about this Resolution through a letter sent to the GRVA Secretary, dated 27 October 2020 (AC.2-134-15) and highlighting para. 11.2 of the Resolution.

6. In its paragraph 10., the Resolution concludes, amongst others, that considerations contained in it “...give rise to a variety of novel challenges to regulatory regimes. It takes note of the work underway in specialised regulatory bodies, including the Working Party on Autonomous and Connected Vehicles (GRVA) of the United Nations Economic Commission for Europe, which is addressing a range of essential technical issues, as well as the European Union and different national authorities...”.

7. Paragraph 11.2. of Resolution 2346 is addressed directly to GRVA. In it the PACE calls on “the GRVA to conduct a human rights impact assessment as part of its preparatory work on future regulation of autonomous vehicles, as part of a general, comprehensive framework for ensuring that safety in all its forms is maximised during future development and production of autonomous vehicles;”.

## **II. Human Rights and the United Nations system<sup>5</sup>**

8. The Human Rights theme is a cross-cutting one in all UN policies and programmes in the key areas of peace and security, development, humanitarian assistance, and economic and social affairs (under which GRVA fits). As a result, virtually every UN body and specialized agency is involved to some degree in the protection of human rights. The Office of the High Commissioner for Human Rights (OHCHR) is the leading UN entity on Human Rights.

9. One of the achievements of the United Nations is the creation of a comprehensive body of human rights law. The foundations of this body of law are the Charter of the United Nations and the Universal Declaration of Human Rights, adopted by the General Assembly in 1945 and 1948, respectively. Since then, the United Nations has gradually expanded human rights law.

### **A. Universal Declaration of Human Rights**

10. The Universal Declaration of Human Rights is a Resolution adopted by the United Nations General Assembly that enshrines the rights and freedoms of all human beings. It was adopted by the General Assembly of the United Nations as UN Resolution A/RES/217 on 10 December 1948 in Palais de Chaillot, Paris. Of the 58 UN Members States at the time, 48 voted in favour (incl. countries regularly participating in GRVA), none against, ten abstained.

### **B. Human Rights legal instruments**

11. There are nine core international human rights legal instruments, according to the OHCHR. They include the Convention on the Elimination of All Forms of Discrimination against Women (1979), the Convention on the Rights of the Child (1989) and the Convention on the Rights of Persons with Disabilities (2006). Some of the treaties are supplemented by optional protocols dealing with specific concerns or establishing a committee of experts. Most UN Member States apply at least four of these nine core international human rights legal instruments.

12. Apart from the Universal Declaration and the nine core instruments, the OHCHR identifies numerous other universal instruments relating to human rights<sup>6</sup>. In its Chapter IV – Human Rights, the UN Treaty Collection lists a series of Treaties Deposited with the Secretary General<sup>7</sup>. There are many other universal instruments relating to human rights

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<sup>5</sup> Text adapted from <https://www.un.org/en/global-issues/human-rights>

<sup>6</sup> <https://www.ohchr.org/en/professionalinterest/pages/universalhumanrightsinstruments.aspx>

<sup>7</sup> [https://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&clang=\\_en](https://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&clang=_en)

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developed through multilateral international cooperation institutions, such as the Convention for the Protection of Human Rights and Fundamental Freedoms of the CoE<sup>8</sup>.

### **C. Human Rights Impact Assessment**

13. The PACE calls on “(...) GRVA to conduct a human rights impact assessment as part of its preparatory work on future regulation of autonomous vehicles (...)”

14. A “*Human Rights Impact Assessment (HRIA)*” is defined as a process for systematically identifying, predicting and responding to the potential human rights impacts of a business operation, capital project, government policy, or trade agreement. It is designed to complement a company or government’s other impact assessment and due diligence processes and to be framed by appropriate international human rights principles and conventions. There are examples of HRIA exercises performed in the context of free trades agreements: in 2017, for example, the UN Economic Commission for Africa published a Human Rights Impact Assessment of the African Continental Free Trade Area (CFTA).

## **III. Possible GRVA responses to the CoE letter**

### **A. Obligations to respond to the call in Resolution 2346**

15. GRVA has no specific obligation, according to the Rules of Procedure, to respond to the call from the PACE.

### **B. Feasibility considerations for GRVA to perform an HRIA**

#### **(a) Competencies**

16. The majority of the delegation members that participate in GRVA are renowned technical experts that don’t necessarily have recognized competencies or knowledge related to HRIA. GRVA has no specific competency, according to the Rules of Procedure, to address the request.

17. Having said that, it seems appropriate to address a request for performing a Human Rights Impact Assessment to a committee like GRVA due to the nature of the assessment. It is an appropriate instrument to anticipate and develop responses to mitigate potential human rights impacts that can result from government policies, or trade agreements.

#### **(b) Resources**

18. GRVA has a rather busy agenda and is already using time allocated to WP.29 in order to deal with its programme of work. It would seem difficult for GRVA to deal collectively with such a challenging task in the current circumstances. Given the current resources of UNECE, UNECE and GRVA can’t afford to duplicate efforts and debates conducted under the auspices of OHCHR on human rights.

19. GRVA does not own a budget for commissioning studies, but it could request UNECE to support an HRIA related to GRVA activities, subject to funding availability.

### **C. Consequences of fulfilling the request of the Resolution**

20. GRVA together with the other GRs and WP.29 is already addressing matters related to Human Rights. In that sense, it is already paying attention to elements behind the PACE request. GRVA is responding to its obligations, as a UN Body, by focusing on aspects such as safety and cyber security. The body, as an inclusive committee, is open to all organizations with ECOSOC consultative status, to receive calls for action and other positions from all

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<sup>8</sup> [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf)

horizons. At its first session, for example, GRVA was informed of the importance of taking into considerations specificities of blind persons, as requested by John Pare, from the World Blind Union.

21. Fulfilling the request would, on one hand, represent a challenge. But on the other hand, it could create some opportunities as it would also provide a more structured and systematic way to deal with technical items and considerations related to human rights.

#### **D. Possible reactions to the request in Resolution 2346**

22. AC.2 considered several possibilities to address the request contained in the PACE Resolution:

##### **(a) Action taken at the individual level, by the GRVA participants**

23. Each delegation of Contracting Parties could declare that they take into consideration their obligations in line with the legal instruments that their Country applies, when formulating positions at GRVA.

24. Each participant, member of Non-Governmental Organizations with consultative status could declare that they consider the principles described in the legal instruments on Human Rights of the United Nations. They could find information on this matter in document 17/31 titled Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (Guiding Principles).

##### **(b) Action taken by the CoE member States participating in GRVA sessions**

25. The GRVA delegations of countries being Member States of the CoE could volunteer to perform the Human Rights Impact Assessment requested.

##### **(c) Action taken by GRVA**

26. GRVA, as committee, could decide to respond to the PACE request. It could request the UNECE Secretariat to perform a HRIA covering the GRVA activities, if funding is made available. The secretariat could regularly report to AC.2 on its activities and draft a report for review and adoption by GRVA.

#### **E. Recommendation for consideration by GRVA**

27. AC.2 recommended GRVA to request the delegations of contracting parties to collect existing material related to Automated/Autonomous and Connected Vehicles and their potential impact on Human Rights. AC.2 discussed that a compendium of existing material could be shared with the CoE and its PACE.

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