

First session Summarise

Name of Event: Workshop on legal harmonisation	
Group: Legal Experts Group	
Date: 10/12/2013	Time: 09.00 – 18.00
Location: Kiev, Ukraine	

The objectives of the workshop were as follows:

- Set-up the legal expert group (LEG)
- To present the concept of a National Focal Points and Expert Groups
- Reach a common understanding on legal harmonisation
- Introductory analysis - from global to regional international law
- Core case: Methodology on Legal harmonisation
- Training needs assessment

By opening the workshop, the Legal Experts Group in the frame of the project IDEA II was formed.

The session started with a presentation of the Concept of TRACECA national focal points.

During interactive discussions participants agreed on topics as follows:

Module I. Understanding: Legal harmonization

1. The role of the LEG:

- a screening of the wide range of international legal acts shall be carried out;
- as a final result the LEG shall provide each country-demanded, tangible results and proposals for the development of the legislation addressing both physical and non-physical obstacles to transport;
- recommendations for each one country shall be given as individual clear short and long term roadmap for legal harmonisation/ approximation in the field of respective mode of transport.

2. The target of the LEG:

- to define the interest of each one country of legal harmonisation and to define the respective international instruments (conventions, agreements) as an object of interest.
- To increase awareness of the methods and techniques for legal harmonisation.
- to implement the methodology on legal harmonization.
- to reach measurable results - recommendations for each one country shall be given as individual clear short and long term road map for legal harmonisation/ approximation in the field of respective mode of transport. Competitiveness, the capacity to attract traffic flows, improving safety,

security, interoperability should be decisive factors in drawing up plans for the future.

3. The commonly agreed definition on legal harmonisation as: the rule-making process towards convergence and harmonisation of laws of different states, as well as the elimination of conflicts and contradictions within the legal system of one country, resulting in the formation of common principles and procedures.
4. Dual approach to implementation of the legal harmonisation in TRACECA countries – European Partnership Countries and legal approximation on one side and Central Asia Countries and legal harmonisation on other side. There is also a common part to be focussed on – international conventions and agreements to accession. In this case common tasks and efforts of the Legal expert group are needed.

Module II. Introductory analysis - from global to regional international law

1. On an international level the scope of the study has to start from the global transport conventions and agreements, passed through TRACECA MLA and TA, Strategy of development of TRACECA to 2015 and other Strategy documents, finally – to regional and bilateral agreements.
2. On a national level – from National development plan in the field of transport, Action plan for its implementation, Laws on ratification of international conventions and agreements and Laws on their implementation, subsidiary legislation – acts of the Government or Ministers.
3. MLA TRACECA with TA and other agreements between TRACECA countries – implementation and the role of the consensus as a base for decisions.
4. Future Silk Wind agreement and existing agreement on Viking Train – legal issues.
5. Unified Railway Law: Breakthrough towards a Euro-Asian and even a global legal regime for rail transport – the LEG declared a high interest to the Action Plan of the Working group on a new UN framework convention, established in UNECE.

Module III: Core case: Legal harmonisation methodology

1. The LEG shall raise awareness taking into consideration the best practices and traditions in legal harmonisation in different countries.
2. The harmonisation/ realignment system consists of three main stages:
 - the transposition of the international standards, established by international conventions and agreements and/or European legislation in the transport sector into the national legal system by using the relevant national procedures and mechanisms (often laws passed by the Parliament, sometimes Presidential, Governmental or Ministerial Decrees and other normative acts);
 - its implementation, by providing the institutions, budgets and implementing necessary to carry out the laws and regulations;
 - its enforcement, by providing the necessary controls and penalties to ensure that the law complies with fully and properly.

3. The participants discussed the methodology of legal harmonisation and commented on the harmonisation means, methods and techniques.
4. Two-staged methodology on legal drafting and essential tools for it – questionnaire and table of concordance were presented.

Future steps:

Short term tasks during next 4 months:

1.

The LEG shall screen the TRACECA transport legal base to define where are the differences and where are the common points in transport legislation between the states. The members of the LEG shall implement as a tool a Questionnaire, given to the experts as Annex I to the Introduction to legal harmonisation.

2.

The LEG shall identify the level of implementation in the countries of different International conventions and agreements. Here the first step with its relevant tool of the Methodology of legal harmonisation shall be exercised by the experts.

3.

The IDEA II project shall take the necessary steps to participate in the work of the legal group on a new UN framework convention Unified Railway Law.

Depending on the outcomes of the tasks above and after discussions with them during Second session of the LEG, the first draft on the road-map on legal harmonisation shall be prepared.

Second Session is planned in April - May 2014.