



ReSPA

Regional School
of Public Administration

Workshop on LEGAL ALIGNMENT

24 – 26 March 2015
Danilovgrad, Montenegro

PROVISIONAL PROGRAMME

Background

Concern and responsibility for the quality level of legal acts represent an integral part of efforts for the successful operation and maintenance of the rule of law. Regulations are the basis of the rule of law which defines legal order, proper functioning of state authorities, actions of legal entities and their mutual legal relationships. The quality of the regulation is primarily dependent on its content; on whether the rule regulates the right issues or the state (or any other regulatory organ), on the basis of prescribing and prohibiting different practices, successfully directs social development and provides fair and equitable rules of coexistence among people, without imposing unnecessary requirements on them and thus causing unnecessary problems in their everyday life and work.

Certainly the EU integration process poses pressure on the quality and comprehensibility of national legislation. The EU legislation, even though a country is not a member of the EU, influences the existing national legislation. The regulations are often adopted by inappropriate speed, and either lead to overregulation or insufficient regulation. This can create legal uncertainty, which results in failure or difficulties in exercising rights and obligations, increased enforcement costs, slowdown of economic growth and the encouragement of corruption.

In order for EU legislation to be better understood and correctly implemented, it is essential to ensure that it is well drafted. Acts adopted by the EU institutions must be drawn up in an intelligible and consistent manner, in accordance with uniform principles of presentation and legislative drafting, so that citizens and economic operators can identify their rights and obligations and the courts can enforce them, and so that, where necessary, the Member States can correctly transpose those acts in due time. However, the reality is oftentimes different.

During the pre-accession time the countries that strive after the membership of the European Union have to transpose and implement EU legislation as it is, with no influence as to its quality. Often this represents major difficulties while harmonising national legislation with the EU legislation; equally insurmountable seem the legal nature of EU legal acts and their correspondence with the existing legal acts that form national legislation. EU directives require national laws to give concrete shape to the rules laid down by the EU. In contrast to EU directives, EU regulations (and decisions) are directly applicable and do not require transposition into national law. However, sometimes they need an active role of the national legislator.

This training/workshop tends to tackle the issues directly related to the difficulties described:

- the importance of national legal drafting rules;
- how to tackle the very idea of the architecture of legislation as a whole;
- how to introduce EU legal acts into the national legal system without causing a complete disintegration of the latter;
- what are the techniques of transposition and implementation of the EU legal acts;
- technical tools that enable us to keep track of the work already done and the one ahead of us during the pre-accession harmonisation process.

Objectives

The training's/workshop's key objective is for all participants to improve practical skills they will use in their work environment in the light of newest developments in the EU legal system.

An objective is to accelerate consideration, acceptance and retention of new skills as regards harmonisation of the national law with the EU legislation resulting in changes in what we do and/or our perceptions. Furthermore, the legal alignment activity will become easier and the perceptions less clouded and more accurate for the practitioners. As the EU legislation poses many new challenges the workshops target at mostly "unlearning" long-established deeply habituated and ingrained practices.

The practitioners will obtain sufficient understanding of all the challenges and get familiar with effective ways of coping with requirements of quality and successful acceptance of the *acquis*.

Content

The topics which shall be covered (from theoretical and practical aspects) during the training/workshops are:

- need to regulate certain area: how to address it, what to take into consideration and how to deal with the EU legislation therein;
- when dealing with the EU legislation how to stop many lengthy sentences, complex sentence structures and even ambiguity as a result of this complexity;
- the interdependence of two processes, namely preparation of the national language version of the *acquis* (primary and secondary legislation) and harmonization of the national legislation with the *acquis*;
- transposition and implementation of EU legal acts during the pre-accession period and once a Member State of the European Union;
- the role and importance of compatibility statement and of table of concordance.

Target Group

The target group are civil servants/practitioners from the Departments for Legal Harmonization from the relevant national EUI coordinating institution and/or civil servants in charge of drafting regulations from the most relevant line Ministries (agriculture, sustainable development, economy, etc.) from Albania, Bosnia and Herzegovina, Kosovo¹, Macedonia, Montenegro and Serbia. Participants are required to be part of the national bodies that draft legislation or examine drafts of legislation as to their legality, constitutionality, conformity with the EU law, and respect of rules on legislative drafting.

¹ This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and ICJ Advisory opinion on the Kosovo Declaration of independence.

Workshop Trainers

Katja Božič has worked at the Office of Legislation since 2000. She is Head of Division for Agriculture, Environment and Spatial Planning.

Anamarija Patricija Masten has worked at the Office of Legislation since 2002. She is Head of Division for European Affairs and Informatisation of Legislative Procedures. She holds doctorate (PhD) in Political Sciences.

Gordana Lalić has worked at the Office of Legislation since 1998. She is Head of Division for non-commercial fields. She holds doctorate (PhD) in Constitutional Law.

All three trainers worked as lawyers-linguists of the *acquis* during the pre-accession period of the Republic of Slovenia. Since then they have monitored the transposition and implementation of the EU law into the national legislation. Whereas Ms Božic and Ms Lalić deal with legislative drafting and adequate transposition/implementation of EU law, Ms Masten is in charge of coordinating infringement procedures initiated by the European Commission and coordinating the notification of national laws and regulations to the European Commission. All three actively participate at round tables and workshops related to the implementation and transposition of the EU law into the national legislation, and have been involved in passing on their knowledge to many of the Western Balkan countries (Bosnia and Herzegovina, Macedonia, Montenegro, Serbia and Albania).

Methodology

The workshop trainers will use power point presentations for all of the topics envisaged in the programme. This will enable the participants to follow the intensive analysis as well as participate in the discussions for each block of presentation will have certain time allocated for interaction amongst trainers and participants of the training/workshops.

During the second and third day of training/workshops majority of time will be dedicated to putting into practice theory learnt the day before. This will enable both, trainers and participants, to learn from each other.

DRAFT TRAINING PROGRAMME

Day 1 – Tuesday, 24 March 2015

9.30 – 9.40	Welcome remarks/presentation of the speakers and participants
9.40 – 11.00	Better Legislative Regulation (who, how, when) Legal Language
11.00 – 11.15	<i>Tea/coffee break</i>
11.15 – 12.30	Preparation of the national language version of the <i>acquis</i> (primary and secondary legislation) and its importance for the harmonization process
12.30 – 13.30	<i>Lunch break</i>
13.30 – 14.45	EU Legal Acts – transposition and implementation (who, what, how)
14.45 – 15.00	<i>Tea/coffee break</i>
15.00 – 16.00	Transposition and implementation of EU legal acts – legal alignment (before and after the accession to the EU)

Day 2 – Wednesday, 25 March 2015

9.30 – 11.00	Guidelines for transposition of the <i>acquis</i> into the national legislation – Rules on legislative drafting (before and after the accession to the EU)
11.00 – 11.15	<i>Tea/coffee break</i>
11.15 – 12.30	Guidelines for transposition of the <i>acquis</i> into the national legislation (<i>continues</i>)
12.30 – 13.30	<i>Lunch break</i>
13.30 – 14.45	Rough path from the legal basis to the final provisions – workshop I
14.45 – 15.00	<i>Tea/coffee break</i>
15.00 – 16.30	Rough path from the legal basis to the final provisions – workshop II

Day 3 – Thursday, 26 March 2015

9.00 – 11.00	Compatibility Statement + Tables of Correspondence (before and after the accession to the EU)
11.00 – 11.15	<i>Tea/coffee break</i>
11.15 – 12.30	Compatibility Statement + Tables of Correspondence
12.30 – 13.30	<i>Lunch break</i>
13.30 – 15.00	Practical case/concluding session <i>End of Workshop</i>