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Support for Implementing Measures for the South East Core Regional Transport Network Multi Annual Plan (EuropeAid/125783/C/SER/MULTI)

THE EXISTING LEGAL SITUATION CONCERNING RSA/RSI and PROPOSED LAW AND REGULATION CHANGES FOR A MANDATORY RSA/RSI

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1. RSA/RSI BACKGROUND

EU Legislation adopted on 19 Nov. 2008, in force by 19 Dec. 2010 (EC Directive 2008/96)

- ... To bring about a **common high level of safety of roads in all EU Member States** ...
- ... To ensure that safety is integrated in all phases of planning, design and operation of road infrastructure ...
- ... To use the limited funds for more efficient construction and maintenance of roads ...


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2. THE EXISTING LEGAL SITUATION IN THE SEETO PARTICIPANTS 1/4


According to the Analysis stage of the Project:

- Only Albania officially adopted legal and regulation for making RSA/RSI mandatory.
- Road Code, Page 39, Art. 35 Para. 3.




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2. THE EXISTING LEGAL SITUATION IN THE SEETO PARTICIPANTS 2/4

- Serbia draft of Road Safety Code (2005) contains RSA as mandatory.
- Road Safety Code Page 127, Art. 352.
- Note: Road Safety Code is in the phase of adoption (in Parliament).



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2. THE EXISTING LEGAL SITUATION IN THE SEETO PARTICIPANTS 3/4

- In former Yugoslav republic of Macedonia, RSA is explicit in Road Safety Strategy.
- National Strategy Page 31 (Ch. 6.2).




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2. THE EXISTING LEGAL SITUATION IN THE SEETO PARTICIPANTS 4/4

- In all other SEETO Participants, RSA/RSI is not mandatory
- Mostly Road Safety Codes contain one general Article about road safety and infrastructure ... Road should be made to fulfil the requests for safety ...
- According to previously, RSA/RSI can be done, but not in official use.



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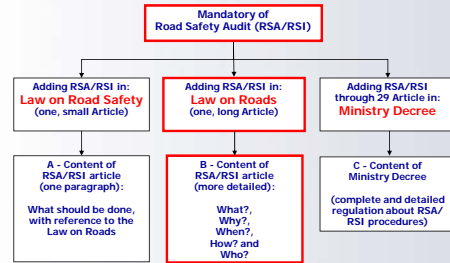


3. IMPLEMENTATION OF PROPOSED LAW AND REGULATION CHANGES FOR A MANDATORY RSA/RSI 1/2

- Proposal for Laws and regulation for implementing mandatory RSA/RSI was prepared in accordance with EU Directive 2008/96/EC, analysis stage of the Project (part about road safety legalization) and European Road Safety best practice.
- Main goal of proposal is to enable all SEETO Participants easy and fast changes of their laws which contain parts about road safety in the way to make RSA/RSI mandatory.

3. IMPLEMENTATION OF PROPOSED LAW AND REGULATION CHANGES FOR A MANDATORY RSA/RSI 2/2

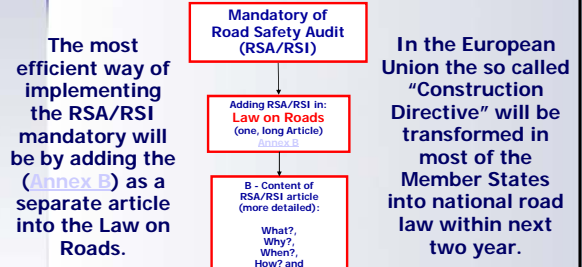
THREE WAY APPROACH



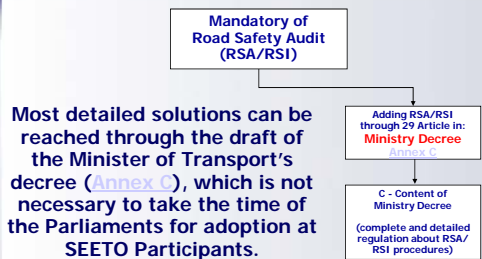
4. THE DRAFT IN GENERAL 1/5



4. THE DRAFT IN GENERAL 2/5



4. THE DRAFT IN GENERAL 3/5



4. THE DRAFT IN GENERAL 4/5

The draft contains for the RSA procedure the following way:

- Installing an independent unit RSAIU for the supervising the RSA/RSI procedures.
- Installing a controlling body in the MoT (CBMoT).
- The RSAIU has a frame contract with the auditors. The RSAIU receives the written audit report. The CBMoT gets one copy of the audit report. If the client doesn't accept and doesn't follow the auditors suggestions he has to give a detailed written justification to every single argument. This "Justification" is to be given to the RSAIU, the CBMoT and to the auditor.

4. THE DRAFT IN GENERAL 5/5

- d) The auditing system depends on **well trained and well informed experts**. These experts have to be **experienced in road construction and road safety matters** and have to be informed on the relevant state of the art.
So it is essential that a person can only become auditor when he passes examinations to prove that he has the expert knowledge.
- e) The question about the **levy of the RSA/RSI contract sum** (sum of the total value of investment) is open for all SEETO Participants. There was no final solution; so the articles 22 to 24 are on request.



5. THE SINGLE ARTICLE FOR THE LAW ON ROADS (Annex B) 1/8

Para. 1

The **preview of the law is the Core Network** (National roads including roads which are the part of the European core network). The new Infrastructure Directive recommends to extend the law for all other roads, at least for roads EU aid has been used for.

The **law establishes and implements the RSA/RSI as a systematic and independent assessment on the safety performance of a road infrastructure project.**



5. THE SINGLE ARTICLE FOR THE LAW ON ROADS (Annex B) 2/8

Para. 1 (continue)

The **RSA is restricted to projects with more than 100.000 € net construction costs.**

The law entitles the MoT explicit to extend by decree the application of RSA on all cases of road construction and also for other roads, e. g. local roads.

Para. 2

For roads in operation Road Safety Inspections shall be undertaken.



5. THE SINGLE ARTICLE FOR THE LAW ON ROADS (Annex B) 3/8

Para. 3

The **MoT gives more details to the RSA/RSI procedure by ministerial decrees, guidelines and manuals.**

For other roads than those of the European Core Network the MoT is entitled to extend the regulations about RSA/RSI by decree.



5. THE SINGLE ARTICLE FOR THE LAW ON ROADS (Annex B) 4/8

Para. 4

There shall be **installed a Road Safety Audit and Inspection Unit (RSAIU) in the Road Administration RSAIU and a Control body in Ministry of Transport (CBMoT).**

The RSAIU plays an important role in the whole RSA/RSI-System.

There is a special hint that RSAIU can impose fees.



5. THE SINGLE ARTICLE FOR THE LAW ON ROADS (Annex B) 5/8

Para. 5

In this paragraph are laid down the **conditions to get a certificate of competence as a RSA/RSI auditor.** More specified details will be in the manuals and guidelines of the MoT.

It is possible to decide to be either RSA auditor or RSI inspector too.



5. THE SINGLE ARTICLE FOR THE LAW ON ROADS (Annex B) 6/8

Para. 6

Until now the time of the entry into force of this law is not foreseeable. Meanwhile national experts can get the certificate of competence abroad. When the law will enter into force the certificate of these experts of RSA will be accepted. The same effect will be for experts of abroad if they meet the requirements of the new law.

Certificates could be organized by state and private expert institutions.



5. THE SINGLE ARTICLE FOR THE LAW ON ROADS (Annex B) 7/8

Para. 7

In this paragraph is expressed the natural principle that **nobody can be auditor of his own work.**

Para. 8

The **management practices have to be improved continuously.** It is self evident that there has to be a international changing of information.



5. THE SINGLE ARTICLE FOR THE LAW ON ROADS (Annex B) 8/8

Para. 9

The installation of RSA/RSI is very essential. So there has to be a very strong enforcement to establish this. The fact that the contracts shall be void if there is no regulation about a RSA and RSI in the contract will bring the necessary solution.



6. CONCLUSION

Content and way of forming RSA/RSI to a law is the result of discussions with experts of all the administrations of the participants, with University professors and with experienced civil servants from abroad.

The most efficient solution for SEETO Participants was found in previously explained **THREE WAY APPROACH .**



Thank you for your attention!

