
Economic Commission for Europe

Inland Transport Committee

Working Party on the Transport of Dangerous Goods

Joint Meeting of the RID Committee of Experts and the Working Party on the Transport of Dangerous Goods

Bern, 18-22 March 2019

Item 4 of the provisional agenda

Interpretation of RID/ADR/ADN

14 March 2019

Withdrawal of the certificate for dangerous goods safety adviser

Transmitted by the Government of Poland

Introduction

1. Pursuant to 1.8.3.15 RID/ADR/ADN, the certificate for dangerous goods safety adviser, hereinafter referred to as "certificate", required in accordance with 1.8.3.7 should be in accordance with the specimen provided in provision 1.8.3.18 and should be recognized by all Contracting Parties of the RID/ADR/ADN. According to the above provision, if the certificate complies with the requirements of RID/ADR/ADN, i.e. issued by the competent authority or by a unit designated by a Contracting Party to the RID/ADR/ADN (see rule 1.8.3.7) and in accordance with the formula set out in regulation 1.8.3.18, then there is no grounds for questioning it. The above-mentioned provision results in the obligation to recognize the rights embodied in this certificate, which results in the possibility of exercising all rights resulting from the possession of a certificate in a specific scope, as well as performing all obligations resulting from this circumstance. Pursuant to provision 1.8.3.3 of RID/ADR/ADN, one of the obligations arising from the possession of a certificate is the preparation of an annual report on the undertaking's activities in the carriage of dangerous goods.

2. It should be noted that the contents of the RID/ADR/ADN do not contain any sanctions regarding the violation by the safety adviser for the carriage of dangerous goods, hereinafter referred to as the "DGSA advisor", obligations set out in the above-mentioned regulations recipe 1.8.3.3.

3. In accordance with Polish law, the competent authority, by way of an administrative decision, withdraws the certificate if the adviser has grossly infringed the regulations on the transport of dangerous goods. Polish law states that the failure to prepare an annual report on the undertaking's activities in the carriage of dangerous goods and thus the violation of the obligation referred to in the above-mentioned provision 1.8.3.3 of the RID/ADR/ADN makes a particularly serious violation.

4. In the context of the above-mentioned legal status, a matter requiring clarification is the case in which a DGSA advisor in the course of his activities in the territory of a non-state country, whose competent authority issued him with a certificate, violated the obligations set out in the abovementioned provision 1.8.3.3 of the RID/ADR/AND or in the provisions of national law. Bearing in mind the obligation of mutual recognition of certificates issued by the competent authorities of all Contracting Parties to RID/ADR/ADN (see rule 1.8.3.15), it

should be recognized that the DGSA advisor may perform its duties in all State Parties to the RID/ADR/ADN.

Questions

5. Is it possible for the competent authority of the state in whose territory the adviser to breach his duties (defined in the RID/ADR/ADN or national law) to withdraw the certificate, and not being the competent authority of the State which issued the DGSA certificate and whether this withdrawal would have only the force binding in the territory of the State whose competent authority has withdrawn the adviser certificate;
 6. Whether the lack of possibility to withdraw the adviser's certificate in the case referred to above would not violate the principle of equal treatment in law;
 7. Whether the competent authority of the country on whose territory the adviser of DGSA has violated his obligations (defined in the RID/ADR/ADN or provisions of national law), should inform the competent authority of the state that issued the certificate for appropriate resolution of the case. In accordance with regulation 1.8.2 of the ADR/RID, the Contracting Parties should agree on mutual administrative support for the implementation of the provisions of the ADR/RID.
 8. The Joint meeting is invited to clarify this issue.
-