Inland Waterways in Europe
Legal Harmonisation in Inland Navigation

Mrs T. HACKSTEINER
Inland Navigation Europe (IVR)
LEGAL HARMONISATION IN INLAND NAVIGATION

Theresia K. Hacksteiner  
General Secretary IVR

1. GENERAL INTRODUCTION

One of the tasks of IVR is the development and the harmonisation of law applicable to inland navigation in a pan-European framework with a view to establishing a uniform European economic space extending from the North Sea to the Black Sea. The completion of the link between the Rhine and the Danube in 1992 has given the impetus to increased contacts between representatives of inland navigation and insurance businesses in East and West. During the same year the IVR organised a first, albeit small, conference, with representatives from the riparian states along the Danube and the Rhine, to initiate an exchange of information between the economic groups involved in inland navigation. This was done in order to highlight the differences and common ground which exist in law and in practice and to reveal opportunities for legal unification in the interests of all. After this first meeting many others followed.

Inter-governmental and supra-national organisations
Each of the two major European rivers, the Rhine and the Danube, has its own regime with regard to public-law aspects and the associated regulations. The Central Commission for Rhine Navigation in Strasbourg and the Danube Commission in Budapest are the guardians of the relevant conventions underlying the two legal regimes, the Mannheim Convention of 1868 and the Belgrade Convention of 1948. Both institutions are concerned with ensuring the freedom of shipping on the waterways in question, passing unified directives in relation to the technical admission of inland navigation vessels and safeguarding public order on the waterways. Although the legal character of resolutions by the two institutions is different, both organisations seek to unify the aforementioned aspects in all the relevant states situated along these rivers.

The European Union, due to its competence in the area of transport, is also involved in inland navigation. Through Regulations and Directives its aim is to bring about unified legislation in all Member States covering inland navigation in the relevant areas.
Role and position of IVR

As regards the private-law aspects of inland navigation, legal unity does not yet exist either in the states along the Rhine or in those along the Danube. Even before the opening of the Rhine-Danube link as mentioned above, the differences that exist between regulations governing inland navigation in the Rhine riparian states had already been criticised many times, particularly with regard to liability aspects, and the need for harmonisation of the regulations in question had been expressed. With the shipping link between the Danube and the Rhine this need has become even more pressing.

In the case of an international mode of transport like inland navigation, the lack of legal unification creates practical obstacles to shipping. Above all the absence of unified liability regulations results in legal uncertainty which could have a negative impact on the development of inland navigation in future.

This is the reason why an international association like the IVR, whose members in the areas of inland navigation, the insurance sector and the associated economic groups have been facing these problems in practice for many years already, has made it its aim to promote legal unification in inland navigation.

While recognising that legal unification is an inevitable necessity for the future development of inland navigation and transportation from and within the States of Central and Eastern Europe, the IVR is supporting:

- the establishment of international conventions in inland navigation
- the entry into force of international conventions in inland navigation
- promoting increased understanding between the sectors involved and their representatives from the riparian states along the Danube and Rhine

Through meetings between the representatives of all the states, Governments and economic groups involved and the associated exchange of information, mutual understanding is promoted and the need for legal unification is expressed. The IVR is therefore fulfilling the function of an international, inter-sectoral institution which can promote and assist to implement legal unification on various levels.

Auspicious

This is an auspicious time from the political, economic and legal point of view to bring about the necessary legal unification, since

- a political rapprochement is taking place between the states of Eastern and Western Europe
- the European Union has decided to extend the number of Member States
- the States of Central and Eastern Europe are undergoing a process of development in civil law
and at the same time a number of international conventions has been developed or has come into force in the area of inland navigation, which are intended to come into force in the Rhine and Danube riparian states.

In this context, alongside the work done by the inter-Governmental and supranational institutions, there is also a need for action by a private-law association such as the IVR, in order to bring about the legal unification which everyone wants to see.

2. RECENT DEVELOPMENTS IN THE LEGAL FIELD OF INLAND NAVIGATION

General
Recently there are some important developments in the legal field of harmonization and unification of inland waterway transport. While in former times inland navigation, contrary to the transport by sea, road or rail, did not succeed in the realisation of international conventions, in the last few years a great progress has been made. In the past years three important conventions in the area of inland navigation have been drafted; one of them already entered into force, one of them has been signed in June 2001 in Budapest and the last one is ready to be negotiated by the representatives of the governments of all European countries dealing with inland navigation.

The three conventions referred to are the
- Strassbourg convention on limitation of liability for inland navigation vessels (CLNI)
- Budapest convention on the contract for the carriage of goods by inland waterways (CMNI)
- Draft European Convention on liability for damage in connection with the carriage of hazardous and noxious substances by inland waterways (CRDNI).

3. FINAL REMARKS

The recent developments in the legal field of inland navigation mark an important step towards a pan European unification of the law. It is only recently that the efforts succeeded and different conventions have been adopted. Yet after the entering into force (CLNI) and the signing (CMNI) of conventions, still many efforts need to be done. Countries involved now have the duty to ratify the conventions and to realise step by step one unified regime for inland navigation.

A uniform legal system is of great importance for the development of inland waterway transport, which is determined as the mode of transport of the future. Thus the uniform legal frame will support the future success of inland navigation.