

The Russian Federation position in regards to draft Revision 3 of the 1958 Geneva Agreement

References: ECE/TRANS/WP.29/2014/53, WP.29-163-24

I. Proposal

Draft Revision 3 of the 1958 Geneva Agreement (ECE/TRANS/WP.29/2014/53), Appendix: Article 9 - delete.

II. Justification

Article 9 (new) introduces a possibility of use by the Contracting Party of the proxy for acknowledgement of its presence with a view of quorum achievement at the voting stipulated by Articles 5, 6, 7 and 8 of the Appendix.

The Russian Federation cannot support the use of a written proxy cancelling personal presence of the representative of a Contracting Party at voting procedures for the following reasons.

The United Nations Charter defines that the Organization is based on a principle of a sovereign equality of all its members (Chapter I « Purposes and Principles», Article 2, point 1), and each its member shall have one vote (Chapter IV «The General Assembly», Article 18). The Terms of Reference and Rules of Procedure of the Economic Commission for Europe stipulate that each member shall be represented on the Commission by an accredited representative (Chapter III «Representation and Credentials», Rule 9) and confirms the norm fixed in the United Nations Charter «one state - one vote».

In the United Nations and in structures of its system there are no precedents of fastening of possibility of voting by proxy. Realization of such an initiative will conflict to above mentioned principles of the United Nations arrangement and functioning, and also will lead to decrease in the transparency, appropriate knowledge and the level of interested regular participation of states in development of decisions within the framework of the 1958 Agreement. Besides that, the voting practice by proxy is fraught with abusing and does not come under necessary verification within the framework of procedures being in force.

The consultations of the UNECE secretariat with the UN Office of Legal Affairs (OLA) (WP.29-163-24) have shown that although voting by proxy is legally possible, it is supposed only at special situations, and cannot practice generally. However, as such special situations have not been defined by the working subgroup on development of the revision of the 1958 Agreement (SG58), the current wording of Article 9 of Appendix to the 1958 Agreement (ECE/TRANS/WP.29/2014/53) supposes voting by proxy at the discretion of a Contracting Party. Although OLA had confirmed that the current wording of Article 9 not providing special situations for voting by proxy is legally comprehensible, the Russian Federation cannot agree with such an approach.

For the time being Contracting Parties to the 1958 Agreement, as well as the countries planning to accede to it, have their permanent representatives in Geneva, who are able personally to be present at a meeting of the Administrative Committee of the 1958 Agreement (AC.1). A personal presence of representatives of Contracting Parties will raise

a role of Contracting Parties in rulemaking process; will promote strengthening of discipline and activating of participation of national delegations in work WP.29 and its subsidiary bodies.

Besides that, a Contracting Party, which does not have a possibility to be present at voting, in advance (as the documents included in the agenda are published on the UNECE website 10 weeks prior to a meeting) can direct to the UNECE secretariat its position in regards to supporting or rejecting a document, which will be put on vote in AC.1. The justification of that position may be taken into account by Contracting Parties and may cause postponing of voting or affect its results.

The acceptance of the proposal on increase of a voting threshold to the level of 4/5 supported by the Russian Federation is a compensatory measure allowing refusing from a voting procedure by proxy.
