



International Rail Transport Committee
Comité international des transports ferroviaires
Internationales Eisenbahntransportkomitee

Legal Interoperability CIV/SMPS

UNECE Workshop

“International Rail Passenger Traffic on the route East-West”
Geneva, 22 November 2016

Dr. Erik Evtimov

Deputy Secretary General CIT

The CIT

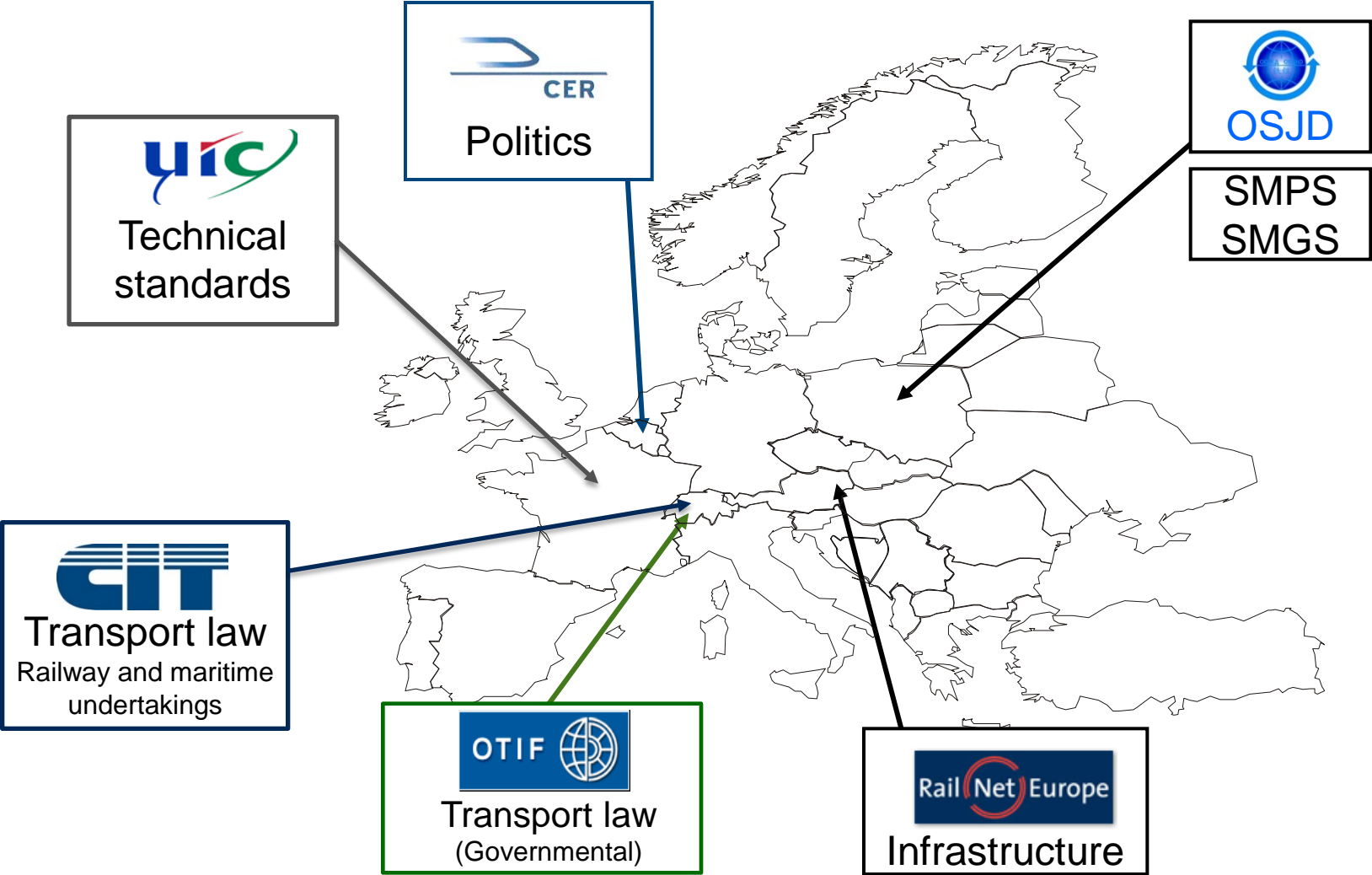
- 200 railway undertakings and maritime companies
- Association under Swiss law located in Bern



Tasks:

1. Practical implementation of COTIF and EC law (transport law)
2. Standardisation of contractual relationships between carriers and carrier-customers in passenger and freight transport
3. Representation of members' interests towards authorities and other associations

Railway and governmental organisations



COTIF - OTIF

COTIF	
Convention relative aux transports internationaux ferroviaires du 9 mai 1950 dans la teneur du Protocole de modification du 3 juin 1990	
Titre premier	Généralités
• Article premier	Organisation intergouvernementale
• Article 2	But de l'Organisation
• Article 3	Coopération internationale
• Article 4	Règles et transfert d'attributions
• Article 5	Obligations particulières des Etats membres
• Article 6	Règles uniformes
• Article 7	Définition de la notion "Convention"

COTIF = Convention concerning International Carriage by Rail

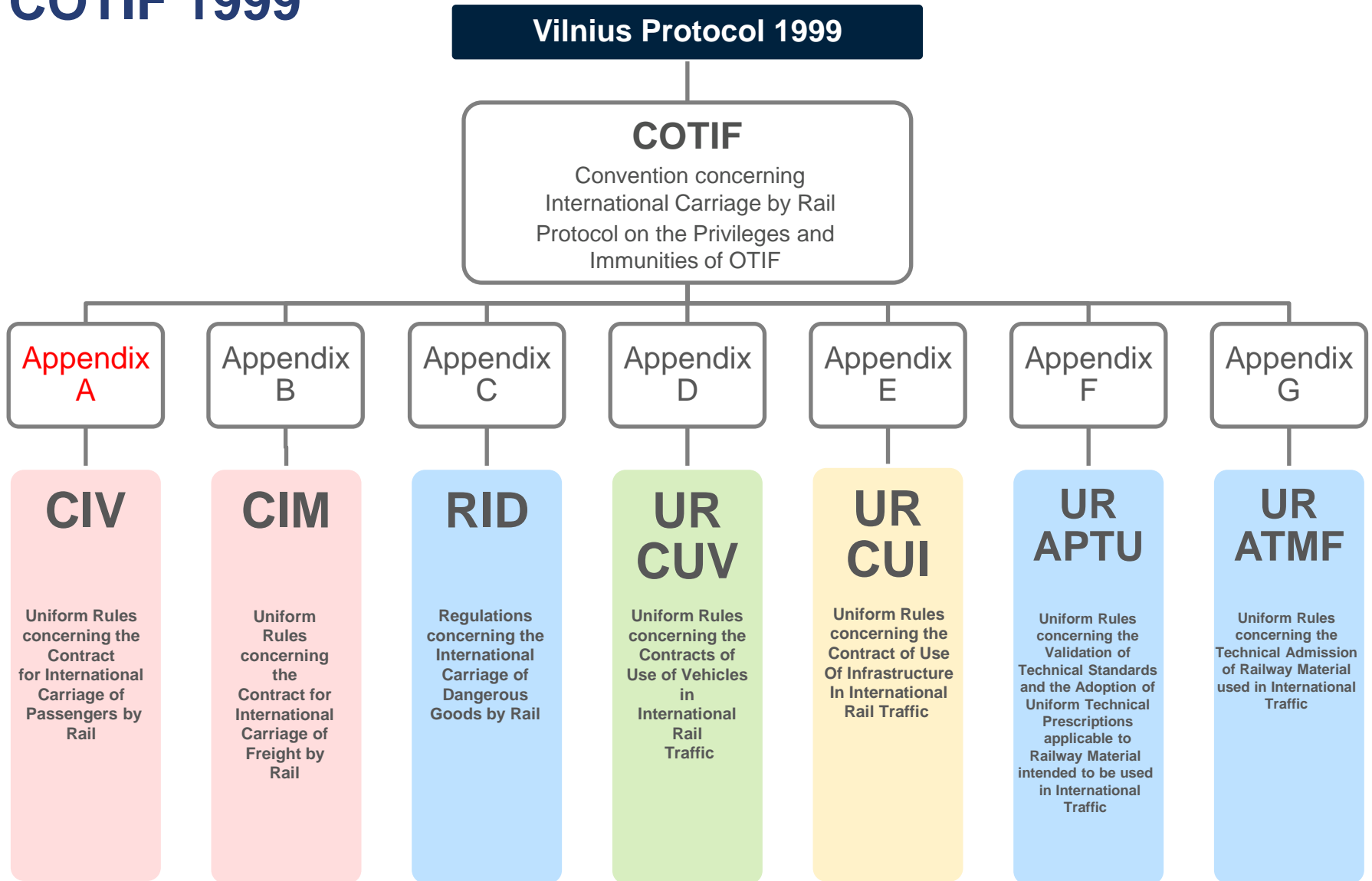
- Aim = to establish **uniform rules** for international rail transport
- Entry into force: 1 July 2006
- Many revisions since 19th century!



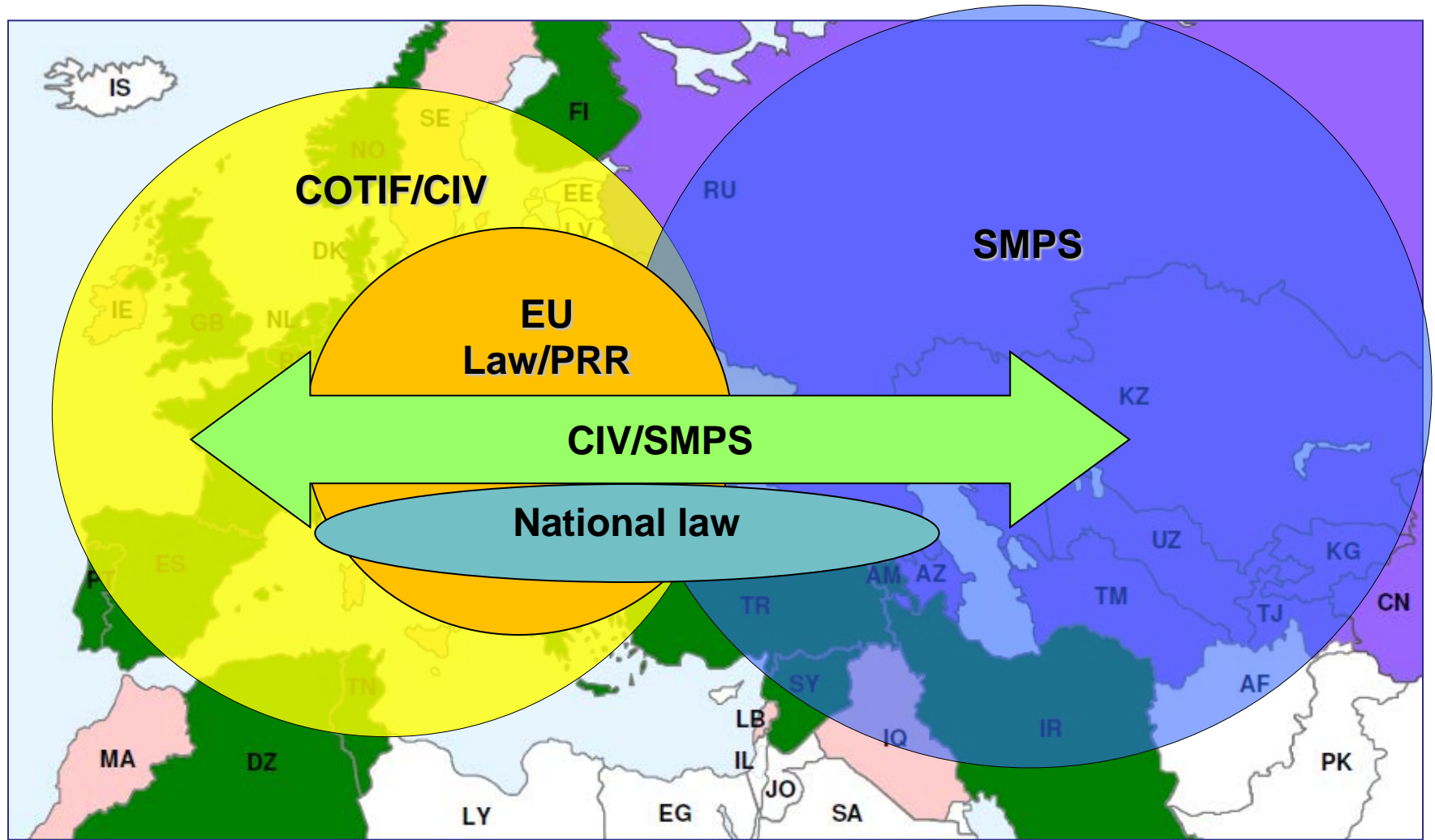
OTIF = Intergovernmental organisation for International Carriage by Rail

- 49 Member States (incl. EU since 2011)
- Recent members = Russia, Armenia, Georgia
→ it is expanding towards East
- Based in Bern (Switzerland)

COTIF 1999

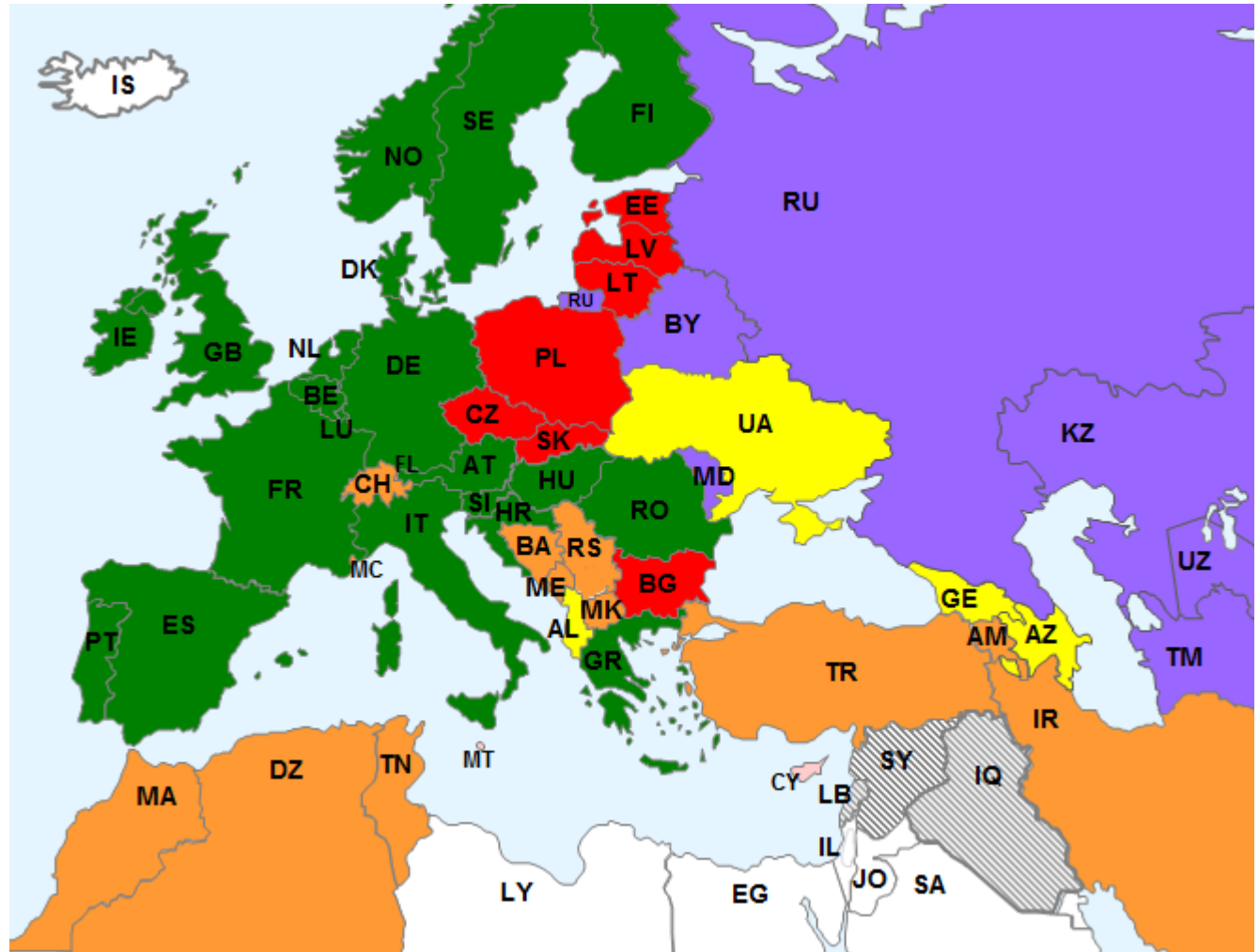
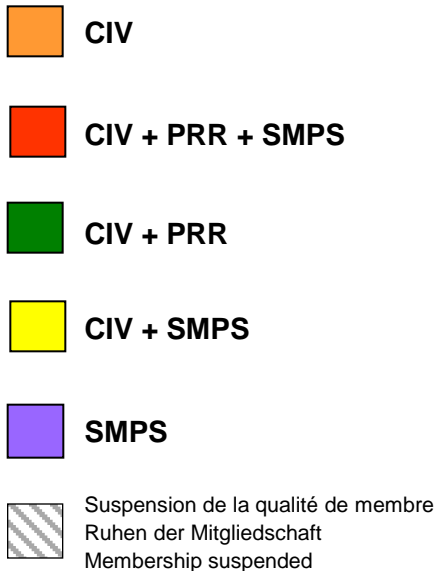


Setting the Scene: Need for legal interoperability in passenger traffic East – West



Setting the Scene: Geographical scope of CIV – PRR – SMPS

Situation on 1 August 2016
Etat au 1^{er} août 2016
Stand 1. August 2016



Activities of the CIV/SMPS Working Group

Preparatory Phase (2011-2012)

Comparison Table of
the international
legal regimes for
passenger traffic
COTIF(CIV)-PRR –
SMPS

The First Phase (2013-2016)

Leaflet on
COTIF/CIV-PRR –
SMPS Liability
Regimes

+

Interactive map with
direct routes and
applicable legal
regimes in
passenger traffic
East-West

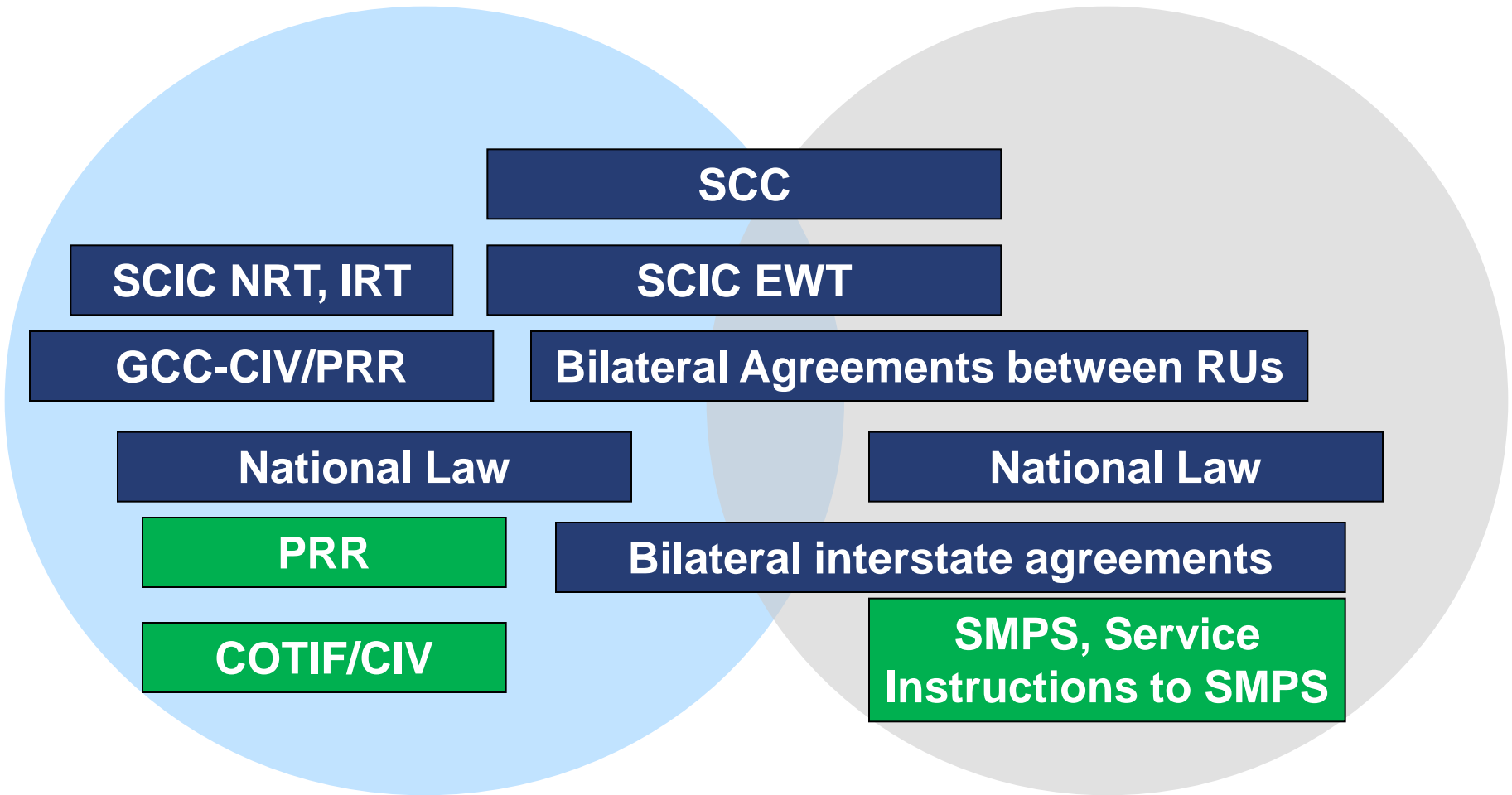
The Second Phase (2017-2020)

- **Implementation** of the findings from the Leaflet in CIT products
- Application of **CIT documents** by SMPS carriers (FPC, UZ, BC)
- **Effects** of the potential changes of legal framework (PRR, SMPS etc.);
- **Legal support** for the work of the UIC EWT Steering Group





Setting the Scene:




Legal conditions for international East-West passenger carriage by rail



Leaflet on COTIF/CIV-PRR – SMPS Liability Regimes (as of 1 October 2014)



Leitfaden zu den Haftungsregimen COTIF / CIV-PRR – SMPS



Le Guide des régimes de responsabilité COTIF/CIV-PRR – SMPS

CIT Support Tool for CIV/SMPS traffic: Leaflet on COTIF/CIV-PRR – SMPS liability regimes (DE/FR/EN/RU/CN)

Part I: General Part

- A Map Showing relevant legal regimes in East-West Passenger Traffic
- B Map showing direct international routes in East-West Passenger Traffic
- C EU map showing exceptions to the application of the PRR for international transport services where significant part of the service is outside the EU
- D Principles underlying the COTIF/CIV-PRR – SMPS liability regimes

Part II: Comparison Table of the COTIF/CIV-PRR – SMPS liability regimes



Commonalities and differences of the two legal regimes: Scope of application and regulatory object

The scopes of COTIF/CIV, PRR and SMPS overlap in terms of the international carriage of passengers and luggage on the territory of States that apply COTIF/CIV, PRR and SMPS simultaneously

COTIF/CIV

- Contract of carriage of passengers and auxiliary services (incl. carriage of cars) / Carrier's liability / Handling of claims;
- Applies to maritime and road transport prior to or following the carriage of passengers by rail;

Regulation 1371/2007/EC (PRR)

- Rail passenger rights in the EU: precontractual and contractual consumer protection rights;
- Incorporates parts of the CIV as Annex I;
- Applies only to the rail passengers services within the EU and its Member States;

SMPS

- Carriage of passengers, luggage and express parcels / Carrier's liability / Assertion of claims;
- Applies only to the carriage of passengers by rail between railway stations on the territory of the SMPS participants



Commonalities and differences of the two legal regimes: Transport models in the COTIF/CIV and SMPS

COTIF/CIV and SMPS have comparable models of **successive transport** with ***joint and several liability*** of carriers participating in the transport operation, **except** in the case of death and physical injury

COTIF/CIV

contains detailed provisions for the substitute carrier model

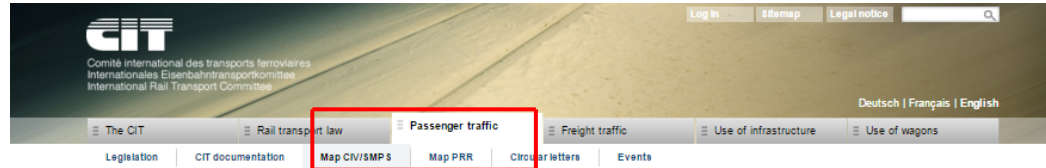
SMPS

only contains a definition of the substitute carrier, but does not have any specific provisions on its liability

The main findings of the comparative analysis

- Currently many commonalities but also some differences for historical and structural reasons;
- Contractual solutions may and do allocate the existing differences to a considerable extent;
- Current development of the SMPS legal framework takes into consideration the CIV and PRR legal regimes;
- The **CIT Leaflet on COTIF/CIV-PRR – SMPS liability regimes** enables a better understanding of the state of art for better contractual solutions and possible future approximation of legal provisions.

CIT Support Tools: Interactive Map on CIV/SMPS traffic



Applicable Legal Regimes and Axes in the Through International East-West Passenger Traffic

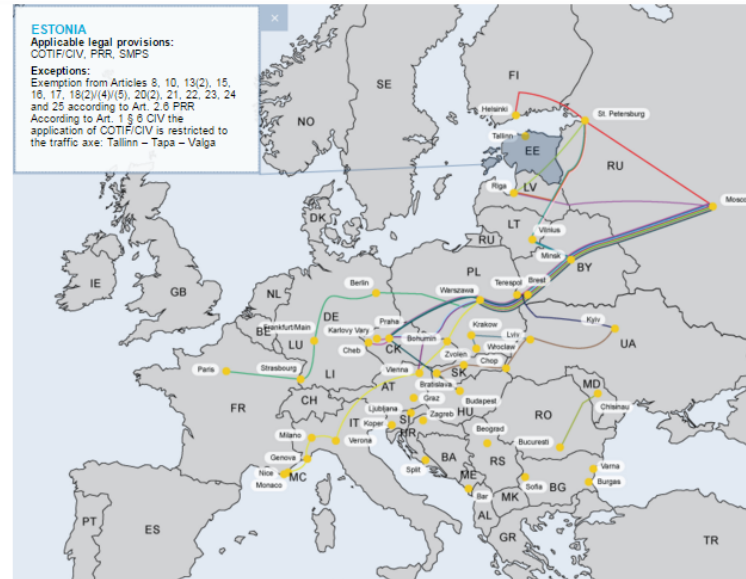
International passenger traffic is subject to international, regional and national legal regimes, similarly to freight traffic. Since divergent legal regulations can lead to legal uncertainty for passengers and also for the carriers involved, clarification of the rights and obligations which apply to international passenger traffic and a comparison between the applicable legal regimes - COTIF/CIV, Regulation (EC) No 1371/2007 (Rail PRR) and the SMPS is essential. This will provide more transparency and legal certainty for the international passenger rail services.

To this end, the CIT has launched a project "Legal Interoperability CIV/SMPS" in 2011, with the support of OTIF and in cooperation with the PRM and DG MOVE of the European Commission. Within the framework of this project, the CIT developed an IT-supported application for an interactive map to show the applicable legal regimes for through international East-West passenger traffic. This interactive map takes into account not only international law but also EU law and specifically, the Rail PRR, including all the exceptions for services in the European Union Member States for services with a significant part outside of the EU. It is available to all CIT members, OTIF, European Union and OSJD Member States through the CIT website.

The key principles underlying the COTIF/CIV-PRR – SMPS liability regime are reflected in the first part of the Leaflet on COTIF/CIV-PRR – SMPS Liability Regimes, publicly available on the CIT website.

Updated regularly

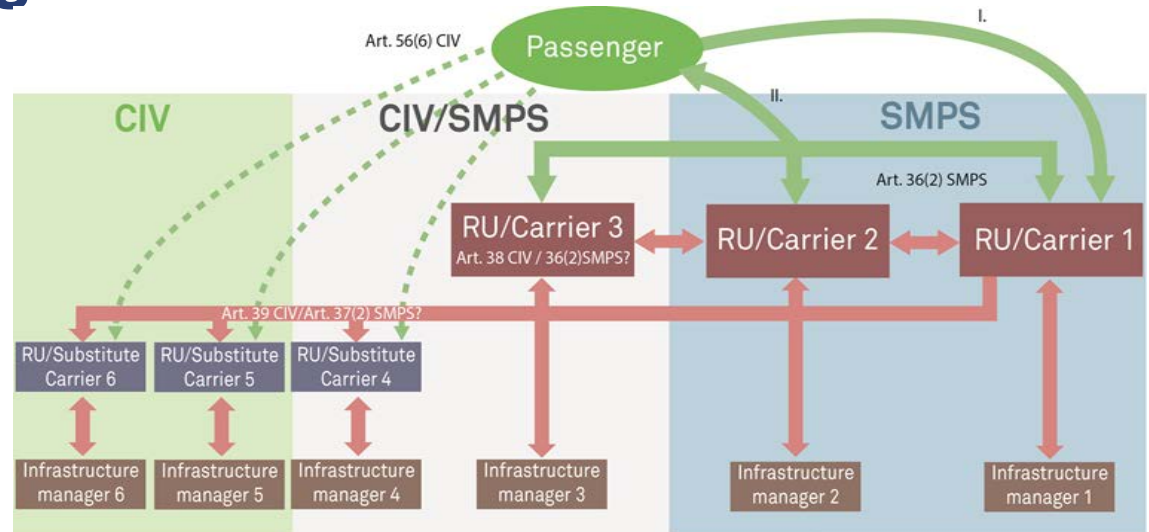
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 - General Secretariat
 - Wellpoststrasse 20
 - CH-3015 Bern
 - Map
 - +41 (0)31 350 01 90
 - info@cit-rail.org



Way forward: Standardised contractual solutions for CIV/SMPS passenger traffic

Three Options:

- Use of existing CIT documents (MCOOP, MIRT) as they stand
- Amendment of the existing CIT documents to include SMPS-specificities
- New documents and tools to be developed



Key activities in the Phase 2: 2017-2020

- Standardised contractual solutions for the interface of CIV and SMPS
- Application of the new CIT passenger traffic documents by SMPS-railways, CIT members (e.g. RZD/FPC, BC and UZ)
- Comparison of SMPS and CIV tickets in connection with the new CIT Manual for International Rail Tickets (MIRT) and application of the CIT security background by SMPS railways
- Impact of the PRR revision and draft agreement on international rail traffic, including an Appendix on cross-border passenger traffic under the OSJD on CIV/SMPS transport
- Issues of data protection in East-West passenger traffic (especially the new EU Regulation on personal data protection)
- Solutions for the international transport of postal consignments in passenger carriages
- Legal support for the work of the UIC EWT Steering Group

Erik Evtimov

Deputy Secretary General, CIT

Tel: + 41 31 350 01 97

E-mail: erik.evtimov@cit-rail.org

www.cit-rail.org