Legal Interoperability
CIV/SMPS

UNECE Workshop
“International Rail Passenger Traffic on the route East-West”
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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

- Technical standards
- Politics
- SMPS
- SMGS
- OSJD
- Transport law (Governmental)
- Infrastructure
- Railway and maritime undertakings
**COTIF - OTIF**

**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

Vilnius Protocol 1999

COTIF
Convention concerning International Carriage by Rail
Protocol on the Privileges and Immunities of OTIF

Appendix A
CIV
Uniform Rules concerning the Contract for International Carriage of Passengers by Rail

Appendix B
CIM
Uniform Rules concerning the Contract for International Carriage of Freight by Rail

Appendix C
RID
Regulations concerning the International Carriage of Dangerous Goods by Rail

Appendix D
UR CUV
Uniform Rules concerning the Contract of Use of Vehicles in International Rail Traffic

Appendix E
UR CUI
Uniform Rules concerning the Contract of Use Of Infrastructure In International Rail Traffic

Appendix F
UR APTU
Uniform Rules concerning the Validation of Technical Standards and the Adoption of Uniform Technical Prescriptions applicable to Railway Material intended to be used in International Traffic

Appendix G
UR ATMF
Uniform Rules concerning the Technical Admission of Railway Material used in International Traffic
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 1er août 2016
Stand 1. August 2016

- CIV
- CIV + PRR + SMPS
- CIV + PRR
- CIV + SMPS
- SMPS

Suspension de la qualité de membre
Ruhender Mitgliedschaft
Membership suspended
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
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.
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 is essential. This will provide more transparency and legal certainty for the international passenger rail services.

The CIT has launched a project “Legal Interoperability CIV/SMPS” in 2011, with the support of CIVF and INFRATEL and the funding of the European Commission. Within the framework of this project, the CIT has developed a web-based application for an interactive map to show the applicable legal regimes for through international East-West passenger traffic. This interactive map takes into account both international law but also EU law and specifically, the Regulation (EC) No 1371/2007 (Rail PPR) and the SMPS liability regime.

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

Updated regularly
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
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