



Organisation intergouvernementale pour les transports internationaux ferroviaires

Zwischenstaatliche Organisation für den internationalen Eisenbahnverkehr

Intergovernmental Organisation for International Carriage by Rail

# COTIF 1999

Protocol on the Privileges and Immunities of the Intergovernmental Organisation for International Carriage by Rail (OTIF)

Authentic text

adopted by the General Assembly at its 5<sup>th</sup> session (26.5–3.6.1999)

**Protocol on the Privileges and Immunities  
of the Intergovernmental Organisation for International Carriage by Rail  
(OTIF)**

**Article 1**

**Immunity from jurisdiction, execution and seizure**

§ 1 Within the scope of its official activities, the Organisation shall enjoy immunity from jurisdiction and execution save :

- a) to the extent that the Organisation shall have expressly waived such immunity in a particular case;
- b) in the case of a civil action brought by a third party;
- c) in the case of a counter-claim directly connected with principal proceedings commenced by the Organisation;
- d) in the case of attachment by order of a court or tribunal, of the salary, wages and other emoluments payable by the Organisation to a member of its staff.

§ 2 The property and other assets of the Organisation, wherever situated, shall be immune from any form of requisition, confiscation, sequestration and any other form of seizure or distraint, except to the extent that this is rendered necessary as a temporary measure by the prevention of accidents involving motor vehicles belonging to or operated on behalf of the Organisation and by enquiries in connection with such accidents.

**Article 2**

**Safeguards against expropriation**

If expropriation is necessary in the public interest, all the appropriate steps must be taken to avoid interference with the exercise by the Organisation of its activities and adequate prompt compensation must be paid in advance.

**Article 3****Exemption from taxes**

- § 1 Each Member State shall exempt the Organisation, its property and income, from direct taxes in respect of the exercise of its official activities. Where purchases or services of substantial value which are strictly necessary for the exercise of the official activities of the Organisation are made or used by the Organisation and where the price of such purchases or services includes taxes or duties, appropriate measures shall, whenever possible, be taken by the Member States to grant exemption from such taxes and duties or to reimburse the amount thereof.
- § 2 No exemption shall be granted in respect of taxes or charges which are no more than payment for services rendered.
- § 3 Goods acquired in accordance with § 1 may not be sold or given away, nor used otherwise than in accordance with the conditions laid down by the Member State which has granted the exemptions.

**Article 4****Exemption from duties and taxes**

- § 1 Goods imported or exported by the Organisation and strictly necessary for the exercise of its official activities, shall be exempt from all duties and taxes levied on import or export.
- § 2 No exemption shall be granted under this Article in respect of goods purchased or imported, or services provided, for the personal benefit of the members of the staff of the Organisation.
- § 3 Article 3 § 3 shall apply mutatis mutandis to goods imported in accordance with § 1.

**Article 5**  
**Official activities**

The official activities of the Organisation referred to in this Protocol are those activities which correspond to the aim defined in Article 2 of the Convention.

**Article 6**  
**Monetary transactions**

The Organisation may receive and hold any kind of funds, currency, cash or securities. It may dispose of them freely for any purpose provided for by the Convention and hold accounts in any currency to the extent required to meet its obligations.

**Article 7**  
**Communications**

For its official communications and the transmission of all its documents, the Organisation shall enjoy treatment no less favourable than that accorded by each Member State to other comparable international organisations.

**Article 8**  
**Privileges and immunities of representatives of Member States**

Representatives of Member States shall, while exercising their functions and during journeys made on official business, enjoy the following privileges and immunities on the territory of each Member State:

- a) immunity from jurisdiction, even after the termination of their mission, in respect of acts, including words spoken and written, done by them in the exercise of their functions; such immunity shall not apply, however, in the case of loss or damage arising from an accident caused by a motor vehicle or any other means of transport belonging to or driven by a representative of a State, nor in the case of a traffic offence involving such a means of transport;

- b) immunity from arrest and from detention pending trial, save when apprehended flagrante delicto;
- c) immunity from seizure of their personal luggage save when apprehended flagrante delicto;
- d) inviolability for all their official papers and documents;
- e) exemption for themselves and their spouses from all measures restricting entry and from all aliens' registration formalities;
- f) the same facilities regarding currency and exchange control as those accorded to representatives of foreign Governments on temporary official missions.

#### **Article 9**

##### **Privileges and immunities of members of the staff of the Organisation**

The members of the staff of the Organisation shall, while exercising their functions, enjoy the following privileges and immunities on the territory of each Member State:

- a) immunity from jurisdiction in respect of acts, including words spoken and written, done by them in the exercise of their functions and within the limits of their prerogatives; such immunity shall not apply, however, in the case of loss or damage arising from an accident caused by a motor vehicle or any other means of transport belonging to or driven by a member of the staff of the Organisation, nor in the case of a traffic offence involving such a means of transport; the members of the staff shall continue to enjoy such immunity, even after they have left the service of the Organisation;
- b) inviolability for all their official papers and documents;
- c) the same exemptions from measures restricting immigration and governing aliens' registration as are normally accorded to members of staff of international organisations; members of their families forming part of their households shall enjoy the same facilities;

- d) exemption from national income tax, subject to the introduction for the benefit of the Organisation of an internal tax on salaries, wages and other emoluments paid by the Organisation; nevertheless the Member States may take these salaries, wages and emoluments into account for the purpose of assessing the amount of tax to be charged on income from other sources; Member States shall not be obliged to apply this exemption from tax to payments, retirement pensions and survivor's pensions paid by the Organisation to its former members of staff or their assigns;
- e) in respect of exchange control, the same privileges as are normally accorded to staff members of international organisations;
- f) in a time of international crisis, the same repatriation facilities for themselves and members of their families forming part of their households as are normally accorded to members of the staff of international organisations.

## **Article 10**

### **Privileges and immunities of experts**

Experts upon whose services the Organisation calls shall, while exercising their functions in relation to, or undertaking missions on behalf of, the Organisation, enjoy the following privileges and immunities to the extent that these are necessary for the exercise of their functions, including during journeys made in the exercise of their functions and in the course of such missions:

- a) immunity from jurisdiction in respect of acts, including words spoken and written, done by them in the exercise of their functions; such immunity shall not apply, however, in the case of loss or damage arising from an accident caused by a motor vehicle or any other means of transport belonging to or driven by an expert, nor in the case of a traffic offence involving such a means of transport; experts shall continue to enjoy such immunity even after they have ceased to exercise their functions in relation to the Organisation;
- b) inviolability for all their official papers and documents;

- c) the exchange control facilities necessary for the transfer of their remuneration;
- d) the same facilities, in respect of their personal luggage, as are accorded to agents of foreign Governments on temporary official missions.

### **Article 11**

#### **Purpose of privileges and immunities accorded**

§ 1 The privileges and immunities provided for in this Protocol shall be instituted solely to ensure, in all circumstances, the unimpeded functioning of the Organisation and the complete independence of the persons to whom they are accorded. The competent authorities shall waive any immunity in all cases where retaining it might impede the course of justice and where it can be waived without prejudicing the achievement of the purpose for which it was accorded.

§ 2 The competent authorities for the purposes of § 1 shall be

- a) the Member States, in respect of their representatives;
- b) the Administrative Committee, in respect of the Secretary General;
- c) the Secretary General, in respect of other members of the staff of the Organisation and of experts upon whose services the Organisation calls.

### **Article 12**

#### **Prevention of abuse**

§ 1 None of the provisions of this Protocol may call into question the right of each Member State to take every necessary precaution in the interests of its public security.

§ 2 The Organisation shall co-operate at all times with the competent authorities of the Member States in order to facilitate the proper administration of justice, to ensure the observance of the laws and prescriptions of the Member States concerned and to prevent any abuse which might arise out of the privileges and immunities provided for in this Protocol.

### **Article 13**

#### **Treatment of own nationals**

No Member State shall be obliged to accord the privileges and immunities referred to in this Protocol under

- a) Article 8, excluding letter d),
- b) Article 9, excluding letters a), b) and d),
- c) Article 10, excluding letters a) and b),

to its own nationals or to persons who have their permanent residence in that State.

### **Article 14**

#### **Complementary agreements**

The Organisation may conclude with one or more Member States complementary agreements to give effect to this Protocol as regards such Member State or Member States, and other agreements to ensure the proper functioning of the Organisation.