

OTIF



**ORGANISATION INTERGOUVERNEMENTALE POUR
LES TRANSPORTS INTERNATIONAUX FERROVIAIRES**

**ZWISCHENSTAATLICHE ORGANISATION FÜR DEN
INTERNATIONALEN EISENBAHNVERKEHR**

**INTERGOVERNMENTAL ORGANISATION FOR INTER-
NATIONAL CARRIAGE BY RAIL**

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Relationship between the United Nations Convention on the Rights of Persons with Disabilities and the scope of COTIF

1. Introduction

The essential requirements set out in UTP GEN-A are equivalent to those set out in annex III to the EU Interoperability Directive. In the EU these essential requirements have recently been complemented by an essential requirement relating to accessibility. The question arises as to whether UTP GEN-A should be amended accordingly.

Although improving accessibility is not one of the aims of COTIF, there may be justified reasons to include accessibility as an essential requirement. One of the reasons is that many OTIF CSs have ratified the UN Convention on the Rights of Persons with Disabilities.

At its 20th session, the standing working group Technology (WG TECH) assigned the OTIF Secretariat the task of analysing the relationship between the UN Convention on the Rights of Persons with Disabilities¹ and the scope of COTIF 1999 in connection with the amendments to UTP GEN-A.

2. Basic information about the UN Convention on the Rights of Persons with Disabilities

Date of adoption: 13 December 2006, at the 61st Session of the General Assembly of the UN

Entry into force: 3 May 2008

Authentic texts: in Arabic, Chinese, English, French, Russian and Spanish

Contracting Parties: 177 States including all OTIF Member States and European Union, with exception of Georgia, Liechtenstein and Switzerland.

3. Purpose of the Convention

The purpose of the Convention is to promote, protect and ensure the full and equal enjoyment of all human rights by persons with disabilities. It covers a number of key areas such as accessibility, personal mobility, health, education, employment, habilitation and rehabilitation, participation in political life, and equality and non-discrimination.

¹ <http://www.socialjustice.nic.in/pdf/conventiondd.pdf>

Countries that join the Convention engage themselves to develop and carry out policies, laws and administrative measures for securing the rights recognized in the Convention and abolish laws, regulations, customs and practices that constitute discrimination (Article 4 of the Convention).

According to the Convention, accessibility is one of the general principles and requirements. (Article 3 of the Convention)

The Convention does not create any new rights or entitlements. However, the Convention expresses existing rights in a manner that addresses the needs and situation of persons with disabilities.

The Convention creates obligations for states to introduce measures that promote the human rights of persons with disabilities without discrimination.

4. Structure of the Convention

The Convention (text without declarations, reservations and objections), has 26 pages and is structured as a Preamble, followed by 50 Articles. Transport is mentioned in Article 9, “Accessibility”. Article 32 requires international cooperation.

Some of the Contracting Parties made declarations (18) and reservations (15), which led to objections (27) from other Contracting Parties.

Contracting Parties also concluded a Protocol in which they recognize the competence of the Committee on the Rights of Persons with Disabilities and procedures for implementing the Convention.²

5. UN Convention and the scope of COTIF 1999

The scope of the COTIF 1999 Convention is to promote, improve and facilitate, in all respects, international traffic by rail.

Although the UN Convention and COTIF have different scopes and different objectives, the proposed amendments to UTP GEN-A accord well with the objectives of the UN Convention.

6. GEN-A amendments

In order to maintain equivalence between the EU and OTIF essential requirements, the UTP GEN-A should be amended by supplementing it with the essential requirements concerning accessibility for persons with disabilities. This should apply at least to rolling stock intended to be used in international traffic, because (new) rolling stock with no accessibility for persons with disabilities would not be allowed to enter the EU. The essential requirements for accessibility in terms of infrastructure and operation (i.e. assistance) could be managed at national level and do not therefore have to be taken over in UTP GEN-A.

² <http://www.un.org/esa/socdev/enable/rights/convtexte.htm#optprotocol>

The OTIF Contracting States that ratified the UN Convention may be assumed to be supportive of the UTP GEN-A amendments, unless they express opinions to the contrary.

The OTIF Contracting States that did not ratify the UN Convention should be given the opportunity to express their opinion on this issue.

The OTIF Secretariat should prepare the amended UTP GEN-A in accordance with this paper and submit it to the CTE, which is competent to adopt it.