



REPORT BY THE CHAIR OF
THE LEGAL COMMITTEE
DR. MARTIN FISCHER



Inland shipping | Insurance | Ship's survey | Related sectors

MEMBERS

Chair: Dr. Martin Fischer

Schweiz:

Dr. T. Burckhardt, S. Erbe

France:

X, Drouin, Chr. Hübner

Bundesrepublik Deutschland:

Dr. M. Fischer (Chair), Dr. O. Hartenstein, M. Jaegers, H. Schoen, Dr. J. Trost

Italy:

M. Grimaldi

Nederland:

V. van der Kuil, Mr. G. Mensink, Mr. T. Roos, Mr. J. Vogelaar

België/Belgique:

Dr. P. Grulois, I. Kroos, L. Segers

Österreich:

Dr. P. Csoklich

Ungarn:

Dr. Z. Kovács

United Kingdom

N. Williams

Ukraine

D. Rabomizo

Guest:

B. Braat

MAIN FOCUS AND ACTIVITIES

HARMONISATION AND UNIFICATION OF INLAND NAVIGATION AND LIABILITY LAW

International Conventions CMNI and CLNI

- engagement in the ratification of these international conventions
- guidelines to support countries at the ratification and implementation of the new CLNI 2012 Convention.

The Convention will enter into force on 1 July 2019. In order to make this possible the current 1988 CLNI Convention was denounced by the Convention States as from 30 June 2018.

Budapest Convention (CMNI)

| Participants | Signature | Ratification | Entry into Force |
|--------------------|------------------|------------------|------------------|
| Belgium | 22 June 2001 | 10 October 2008 | 1 December 2008 |
| Bulgaria | 22 June 2001 | 19 April 2006 | 1 August 2006 |
| Croatia | 22 June 2001 | 7 December 2004 | 1 April 2005 |
| Czech Republic | 22 June 2001 | 14 November 2005 | 1 March 2006 |
| France | 22 June 2001 | 11 May 2007 | 1 September 2007 |
| Germany | 22 June 2001 | 10 July 2007 | 1 November 2007 |
| Hungary | 22 June 2001 | 7 May 2002 | 1 April 2005 |
| Luxembourg | 6 September 2001 | 25 March 2004 | 1 April 2005 |
| Moldova | 21 December 2001 | | 1 August 2008 |
| Netherlands | 22 June 2001 | 20 June 2006 | 1 October 2006 |
| Poland | 20 June 2002 | | |
| Portugal | 22 June 2001 | | |
| Romania | 31 July 2001 | 3 April 2004 | 1 April 2005 |
| Russian Federation | | 11 April 2007 | 1 August 2007 |
| Serbian Republic | 21 October 2010 | 01 November 2010 | 1 November 2010 |
| Slovakia | 22 June 2001 | 27 November 2007 | 1 March 2008 |
| Switzerland | 22 June 2001 | 13 May 2004 | 1 April 2005 |
| Ukraine | 20 June 2002 | | 1 January 2015 |

In accordance with its article 34, paragraph 1, the Convention entered into force on 1 April 2005.

MAIN FOCUS AND ACTIVITIES

Budapest Convention on the contract for the carriage of goods by inland waterways (*CMNI*)

- signed 3.10.2000 under auspices of CCNR, Danube Commission and UNECE.
- After 50 years of negotiating
- Following the principles of conventions in other modes of transport such as CMR, Hague-Visby Rules and Hamburg Rules.
- International scope (art. 2)
- Can be declared applicable for national transports by each State Party (art. 31) and thus becoming domestic law

MAIN FOCUS AND ACTIVITIES

Strasbourg Convention 2012 on limitation of liability for inland navigation vessels (*CLNI 2012*)

- After the connection of the two major rivers in Europe in 1992 – Rhine and Danube – the necessity was felt to enlarge the scope of the actual CLNI 1988 convention
- Adopted on 27 September 2012 under auspices of CCNR
- Enlarging the scope of the CLNI 1988
- entering into force on 1 July 2019 after denouncement of current 1988 CLNI Convention by the Convention States as from 30 June 2018.

Strasbourg Convention CLNI 2012

| Signatory State | Signature | Ratification |
|-----------------|-----------|--------------|
| Germany* | 11.07.13 | 27.09.2018 |
| Austria | | |
| Belgium | 27.09.12 | |
| Bulgaria | | |
| France | | |
| Hungary | 27.09.12 | 07.03.2018 |
| Luxembourg* | 27.09.12 | 25.09.2014 |
| Netherlands | 29.11.12 | 22.03.2017 |
| Poland | 03.12.13 | |
| Serbia | 18.06.13 | 18.06.2013 |
| Slovakia | | |
| Switzerland* | | |

*States which ratified CLNI 1988

MAIN FOCUS AND ACTIVITIES

COLLECTION CASE LAW CMNI & CLNI

| | | | |
|--|---|----------------------------|---|
| BGH 01.06.2017 Appeal OLG Frankfurt am Main, 26.1.2016 | <u>Az: 1 ZK 29/16</u> <u>AfB 2017, Nr. 1, S. 2493</u> | <u>Artikel 20, 21 CMNI</u> | Towing contract is contract of carriage, limitation of liability (hull is package), custodial liability, freight document and qualified culpability |
| | <u>Az.: 5 U 17/13</u> <u>ZfB 2016, Nr. 3, Sammlung Seite 2412 ff</u> <u>TranspR 10-216 Seite 399 ff</u> | | |

A towing contract of a hull is qualified as contract of carriage. In absence of a written declaration of the weight of the alongside towed hull it is qualified as package according to art. 20 par 1. first sentence of CMNI, on which a limitation of liability of 666,67 SDR applies. No loss of the right of limitation of liability due to a lack of a qualified culpability.

MAIN FOCUS AND ACTIVITIES

COLLECTION CASE LAW CMNI & CLNI

Rb Rotterdam
amount
22.03.2017

ECLI:NL:RBROT:2017:4164

ECLI:NL:RBROT:2017:4166
S&S 2017/61

Art. 1, 11 CLNI

Collision vessel against weir and request to determine the

of the limit of liability; constitution of the fund with the court of
the state where legal proceedings could be initiated

Damage to e.g. the weir in Grave caused by an collision. Attachment of the vessel by the state in order to obtain security for the claim against the owner situated in Germany. The owner files a request to determine the amount of the limit of liability and constitution of a property fund. Article 11 CLNI determines that the constitution of a fund is possible with the court in any State Party in which legal proceedings are instituted in respect of claims subject to limitation or in which legal proceedings can be instituted, in this case the Netherlands.

The owner may preliminary limit its liability with a property fund to the amount of 726,421.2 SDR.

OLG Nürnberg
30.03.2017

9 U 243/14 BSch
TranspR 6-2017

Art. 4 CLNI =
§ 5b Abs.2 BinSchG

No entitlement to limitation of liability in accordance with
§ 5b Abs.2 BinSchG/Art. 4 CLNI

MAIN FOCUS AND ACTIVITIES



INTERNATIONAL CONVENTIONS AND RULES IN INLAND NAVIGATION

International conventions on the carriage of goods, limitation of liability in inland navigation, Registration of inland vessels and collisions in inland navigation

Address:
Balkanska 1
11000 Belgrade
Serbia

Venue:
Hotel MOSKVA

5 SEPTEMBER 2019
Belgrade, Serbia

MAIN FOCUS AND ACTIVITIES

Programme



09.00 Registration

10.00 Opening and addresses

Dr. Philippe Grulois, *President IVR*
Dr. Veljko Kovačević, *Assistant Minister of Transport of Serbia, Belgrade*
Manfred Seitz, *incoming Director General of the Secretariat of the Danube Commission, Budapest*
Bruno Georges, *Secretary General of the Central Commission for the Navigation of the Rhine, Strasbourg (tbc)*

MODERATOR Dr. Peter Csoklich,
Lawyer at Doralt, Seist, Csoklich Vienna

PART I

10.30 General introduction by the moderator CLNI 2012 and CMNI

State of ratifications and national implementations

Dr. Peter Csoklich, *lawyer at Doralt, Seist, Csoklich Vienna*
Filip Milosevic, *M.L.B., lawyer at Advokatska kancelarija Milosevic, Belgrade*

Case law regarding CMNI and CLNI: Autonomous interpretation of the conventions?

Presentation of the database of case law on CMNI/CLNI:
Theresia Hacksteiner, *Secretary General IVR*
Comparison of case law in different countries
Vivian van der Kuil, *lawyer at AKD, Rotterdam*
Markus Jaegers, *lawyer at NJP Grotstollen, Duisburg*

Relevance of unification by CMNI and CLNI for the insurance and legal practice: "Unification versus national deviations"
Dr. Johannes Trost, *lawyer at LEBUHN & PUCHTA, Hamburg*

Q&A and discussion

13.00 – 15.00 Lunchbreak

PART II

15.00 Inventory of existing conventions in IWT, relevance and need for update? Convention on the registration of inland navigation vessels

Massimo Grimaldi, *lawyer at Grimaldi Studio Legale, Genoa*

Collision convention in inland navigation

Dr. Olaf Hartenstein, *lawyer at Arnecke Sibeth Dabelstein, Hamburg*

General average: importance and national developments, ivr general average rules

Dr. Jolien Kruit, *lawyer at Van Traa, Rotterdam*
Dr. Zsolt Kovács, *lawyer at Gárdos Mosonyi Tomori, Budapest*

Q&A and discussion

17.00 Synthese and conclusions

Theresia Hacksteiner, *Secretary General IVR*

19.00 Dinner and networking event

on board passenger vessel 'Sirena'

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EXCHANGE WITH COMITÉ MARITIME INTERNATIONAL CMI

- IVR affiliated member of CMI and vice-versa
- First exchange in Legal Committee in yesterday's meeting
- Cooperation with CMI envisaged in areas of common interest

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CONCLUSION

In the interest of the members the Committee is focusing on harmonisation and unification in inland waterway transport in order to contribute to

- a stronger legal framework for IWT
- avoiding overlapping regulations
- The elaboration of private law legal instruments – international conventions
- Internationally harmonised conditions such as General Average

all leading to legal certainty and legal clarity

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DETAILED INFORMATION ON www.ivr-eu.com

MANY THANKS FOR YOUR ATTENTION