

Cargo bikes, H2- powered trucks and similar – are they covered by the CMR?

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Back in 1956 life was easy





Photo by Nigel Tadyanehondo on Unsplash



H₂ Fuel Cell



Hyzon

Hyzon HyMax-160

-  H2-Brennstoffzelle
-  N3 (ab 12 t)
-  Lkw
-  350 - 600 km



Hyundai

Hyundai Xcient Fuel Cell

-  H2-Brennstoffzelle
-  N3 (ab 12 t)
-  Lkw
-  350 - 600 km



Enginius

Enginius Bluepower BLUEPOWER 2738E 6x2/4

-  H2-Brennstoffzelle
-  N3 (ab 12 t)
-  Lkw
-  200 - 350 km



Enginius

Enginius Citypower

-  H2-Brennstoffzelle
-  N3 (ab 12 t)
-  Lkw
-  350 - 600 km

www.klimafreundliche-nutzfahrzeuge.de/fahrzeugdatenbank/?_sft_antriebsart=h2-brennstoffzelle&_sft_fahrzeugtyp=lkw



www.scania.com/group/en/worlds-first-electric-road-opens-in-sweden/





www.vgf-ffm.de/de/aktuelles/news/einzelansicht/achtung-hier-kommt-dein-paket-forschungsprojekt-zur-lastmiletram-gestartet





jobs.movebybike.com/departments/stockholm-riders



logistra.de/news/nfz-fuhrpark-lagerlogistik-intralogistik-auch-karlsruhe-liefert-ups-cargobike-15125.html



Why do we care ...?

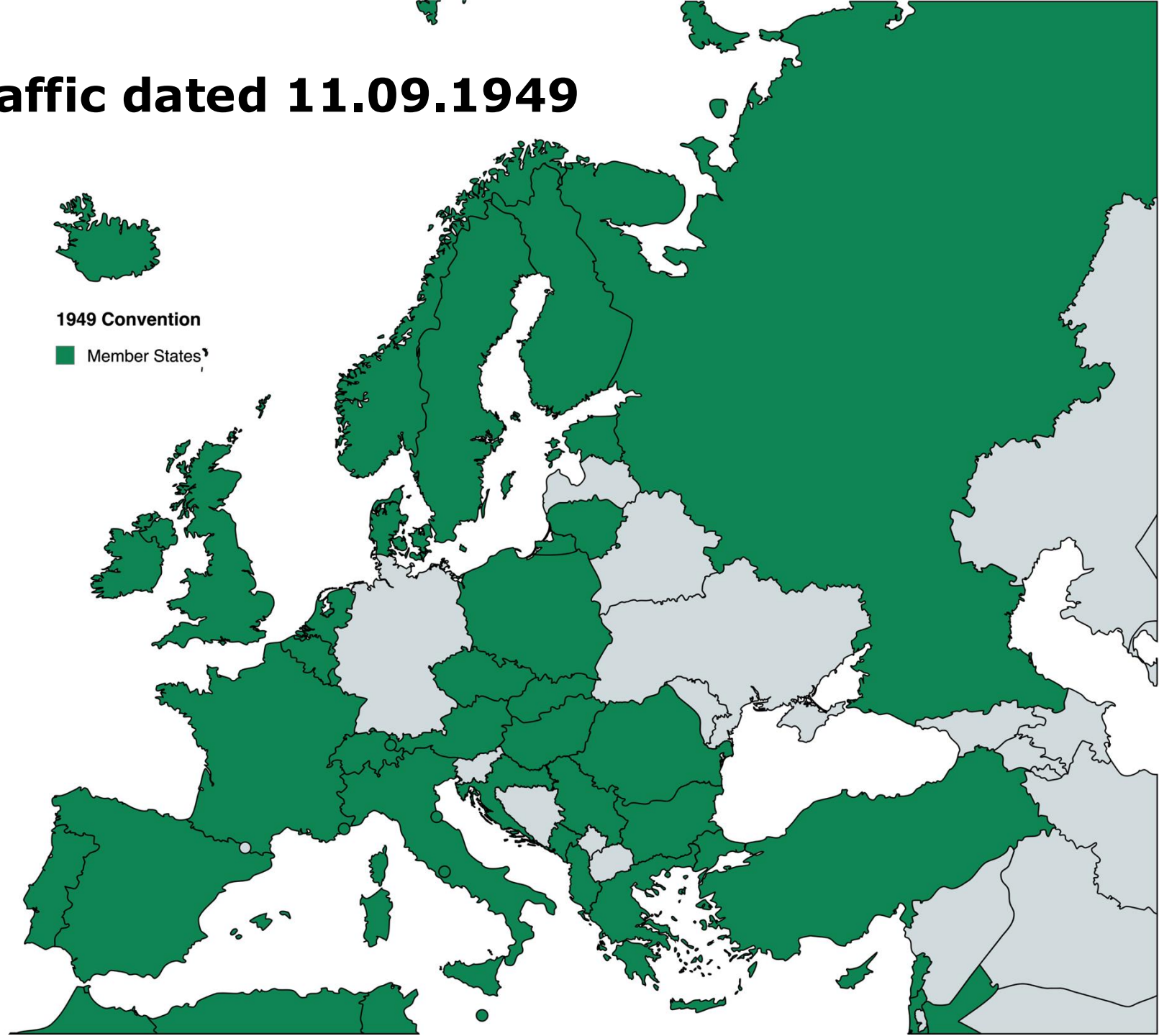
Art. 1 para. 2 CMR:

For the purposes of this Convention, „vehicles“ means motor vehicles, articulated vehicles, trailers and semi-trailers as defined in article 4 of the Convention on Road Traffic dated 19 September 1949.

- If the other means of transport is not a „vehicle“, then we are dealing with a non-CMR transport
- CMR + non-CMR = multimodal
- CMR & multimodal is ... difficult



Convention on Road Traffic dated 11.09.1949



Article 4 of the Convention on Road Traffic dated 11.09.1949

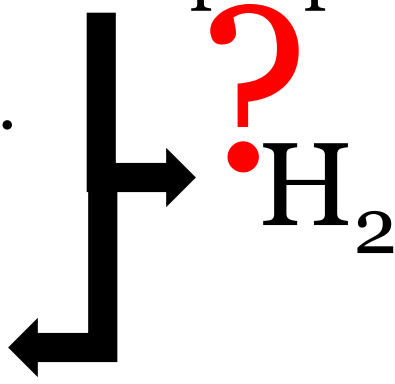
↗ H_2

"Motor vehicle" means any self-propelled vehicle normally used for the transport of persons or goods upon a road, other than vehicles running on rails or connected to electric conductors. ...



Article 4 of the Convention on Road Traffic dated 11.09.1949

Le terme "automobile" désigne tous véhicules pourvus d'un dispositif mécanique de propulsion circulant sur la route par leurs moyens propres, ...

Fuel Cells 

Climate & Energy | Sustainable Markets | Renewable Fuels | Exploration & Production | Refining

Big truckmakers bet on hydrogen to extend combustion engine life

By Christina Amann and Nick Carey

August 1, 2024 8:39 AM GMT+2 · Updated a month ago

www.reuters.com/business/autos-transportation/big-truckmakers-bet-hydrogen-extend-combustion-engine-life-2024-08-01/



Article 4 of the Convention on Road Traffic dated 11.09.1949

"Motor vehicle" means any self-propelled vehicle normally used for the transport of persons or goods upon a road, other than vehicles running on rails or connected to electric conductors. Any State bound by annex 1 shall exclude from this definition cycles fitted with an auxiliary engine of the type described in that annex;



Article 4 of the Convention on Road Traffic dated 11.09.1949

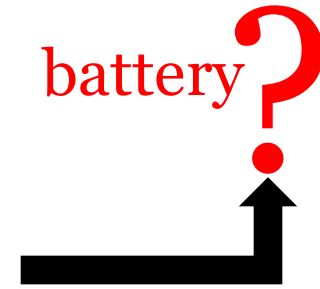
"Cycle" means any cycle not self-propelled [... *non pourvu d'un dispositif automoteur ...*]. Any State bound by annex 1 shall include in this definition cycles fitted with an auxiliary engine of the type described in that annex;



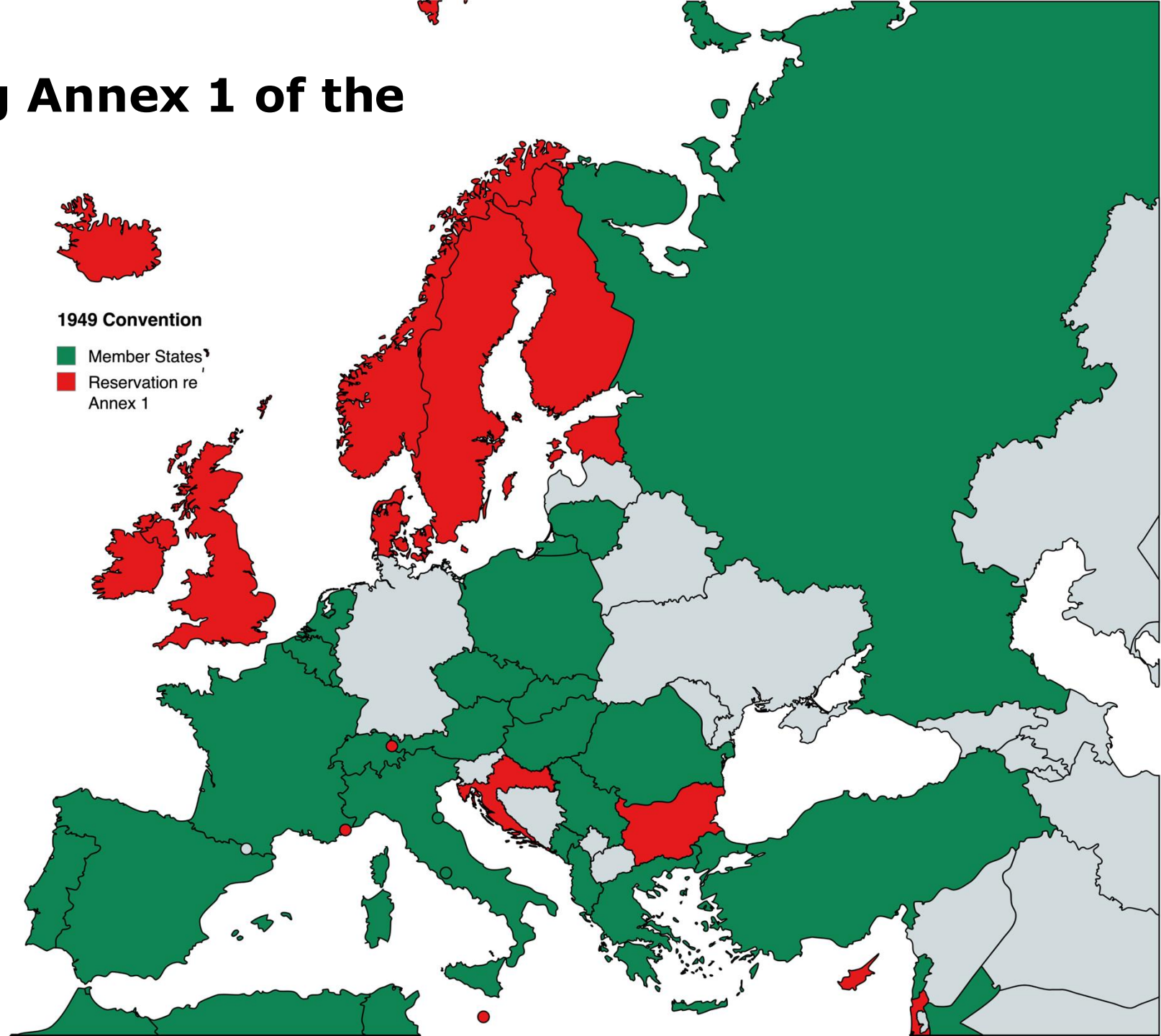
Annex 1 of the Convention on Road Traffic dated 11.09.1949

Cycles fitted with an auxiliary internal combustion engine [*moteur auxiliaire thermique*] having a maximum cylinder capacity of 50 cm³ (3.05 cu. UK) shall not be considered as motor vehicles, provided that they retain all the normal characteristics of cycles with respect to their structure.

battery?



Reservations regarding Annex 1 of the 1949 Convention



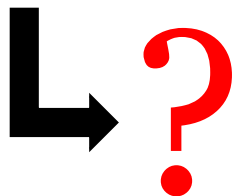
1949 Convention

- Member States
- Reservation re Annex 1

European Agreement supplementing the 1949 Convention on road traffic and the 1949 Protocol on road signs and signals

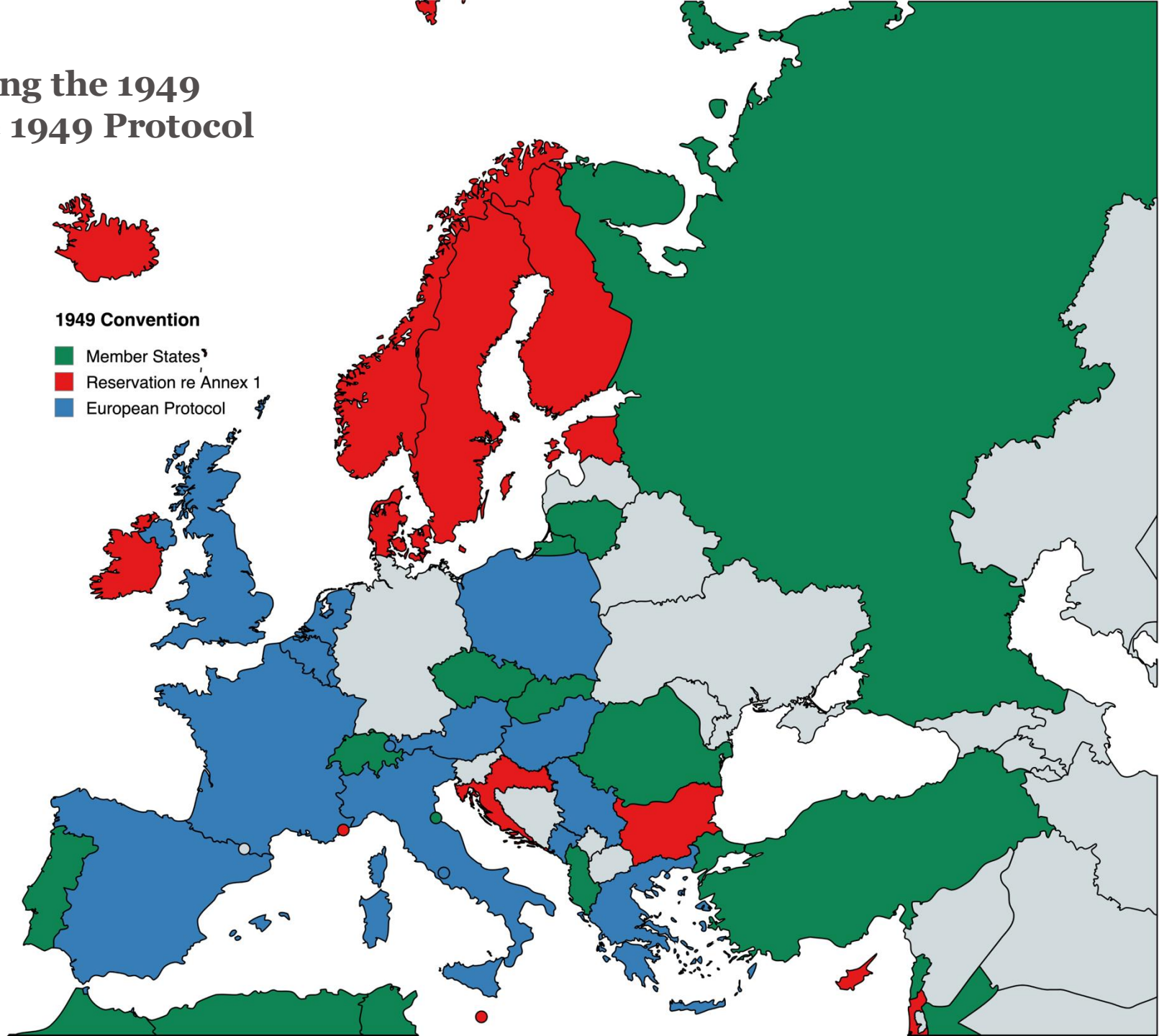
Ad Annex 1

Cycles fitted with an auxiliary motor will not be considered as motor vehicles provided that they have the normal characteristics of bicycles as to their performance.



1949 Convention

- Member States¹⁾
- Reservation re Annex 1
- European Protocol



Summary for the 1949 Convention

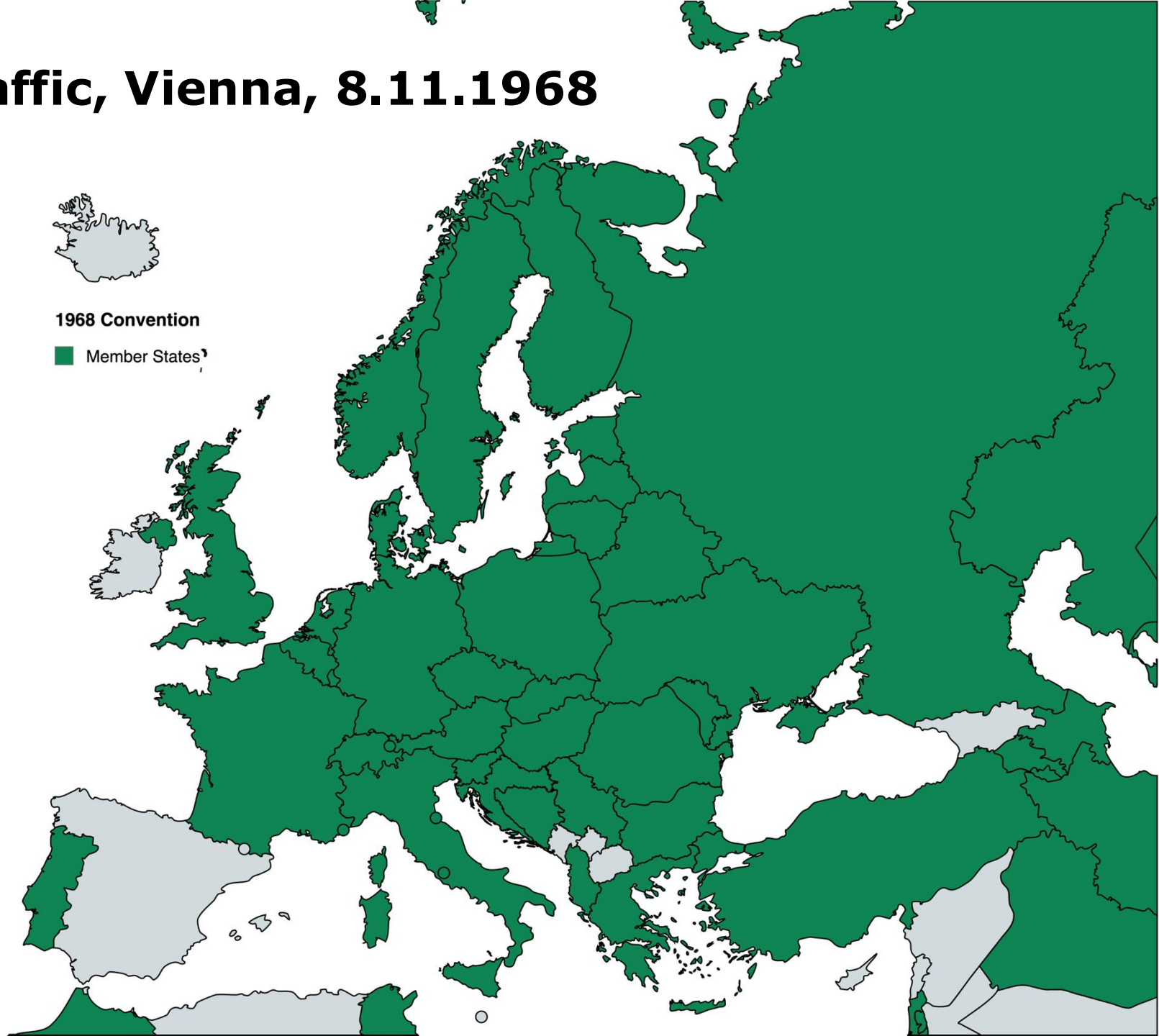
- No train or tram
- Maybe trolley-truck
- H₂ combustion covered
- H₂ fuel cell unclear
- E-Bike ... it's complicated



Convention on Road Traffic, Vienna, 8.11.1968

Article 48

Upon its entry into force, this Convention shall terminate and replace, in relations between the Contracting Parties, ... and the Convention on Road Traffic, opened for signature at Geneva on 19 September 1949.



Art. 1 lit. l) - p) Convention on Road Traffic, Vienna, 8.11.1968

Can there be such a thing as a two-wheeled motor cycle with a side-car and just TWO wheels?



"Motor cycle" means any two-wheeled vehicle, with or without a side-car, which is equipped with a **propelling engine**. Contracting Parties may also treat as motor cycles in their domestic legislation three-wheeled vehicles whose unladen weight does not exceed 400 kg (900 lb). The term "motor cycle" does not include mopeds ...

... unlikely.



Art. 1 lit. l) - p) Convention on Road Traffic, Vienna, 8.11.1968

"Motor vehicle" means any power-driven vehicle which is normally used for carrying persons or goods by road or for drawing, on the road, vehicles used for the carriage of persons or goods. This term embraces trolley-buses, that is to say, vehicles connected to an electric conductor and not rail-borne.

"Power-driven vehicle" means any self-propelled road vehicle [*tout véhicule pourvu d'un moteur de propulsion*], other than a moped in the territories of Contracting Parties which do not treat mopeds as motor cycles, and other than a rail-borne vehicle;

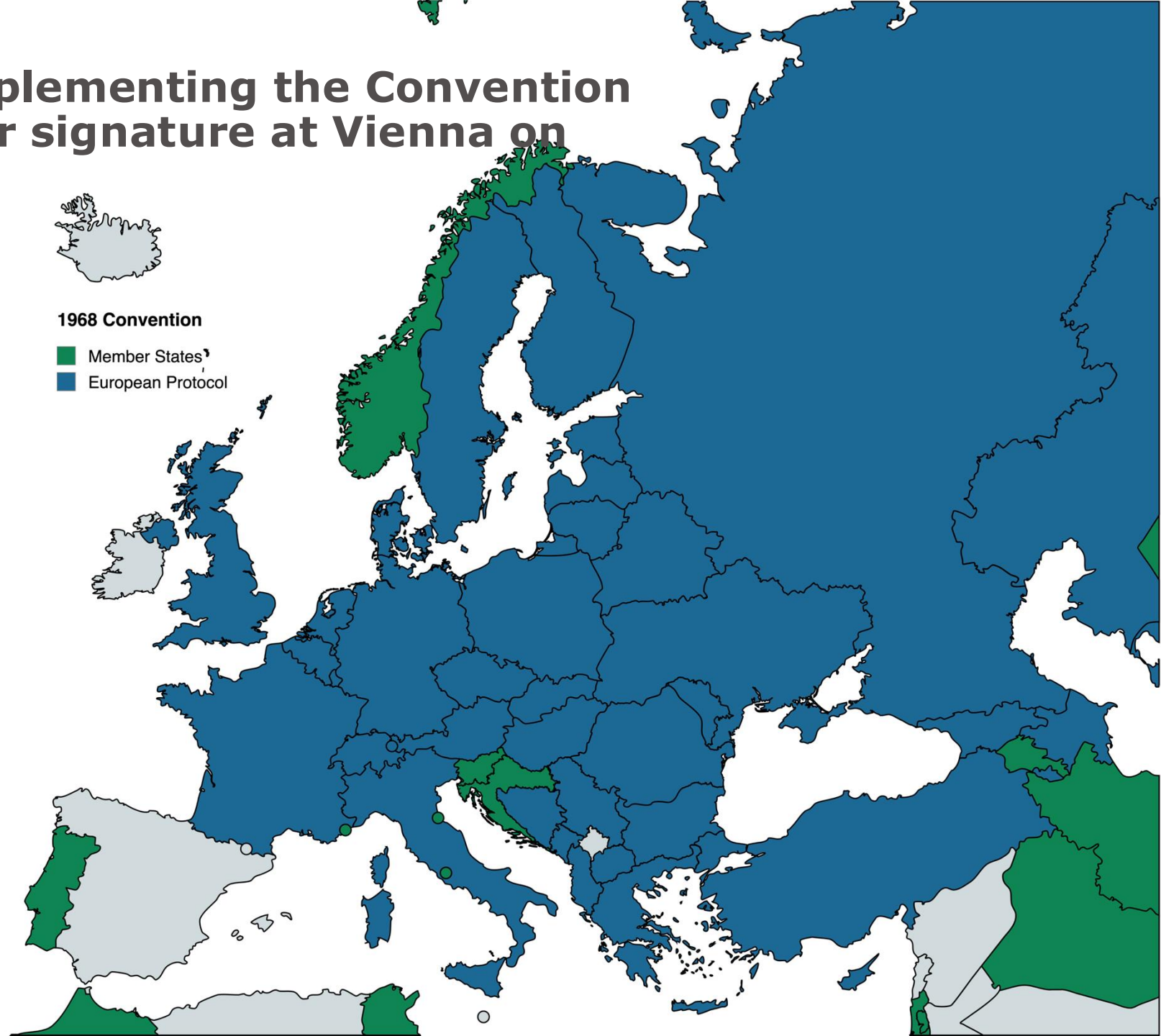


European Agreement supplementing the Convention on road traffic opened for signature at Vienna on 8 November 1968

3. Ad Art. 1 of the Convention

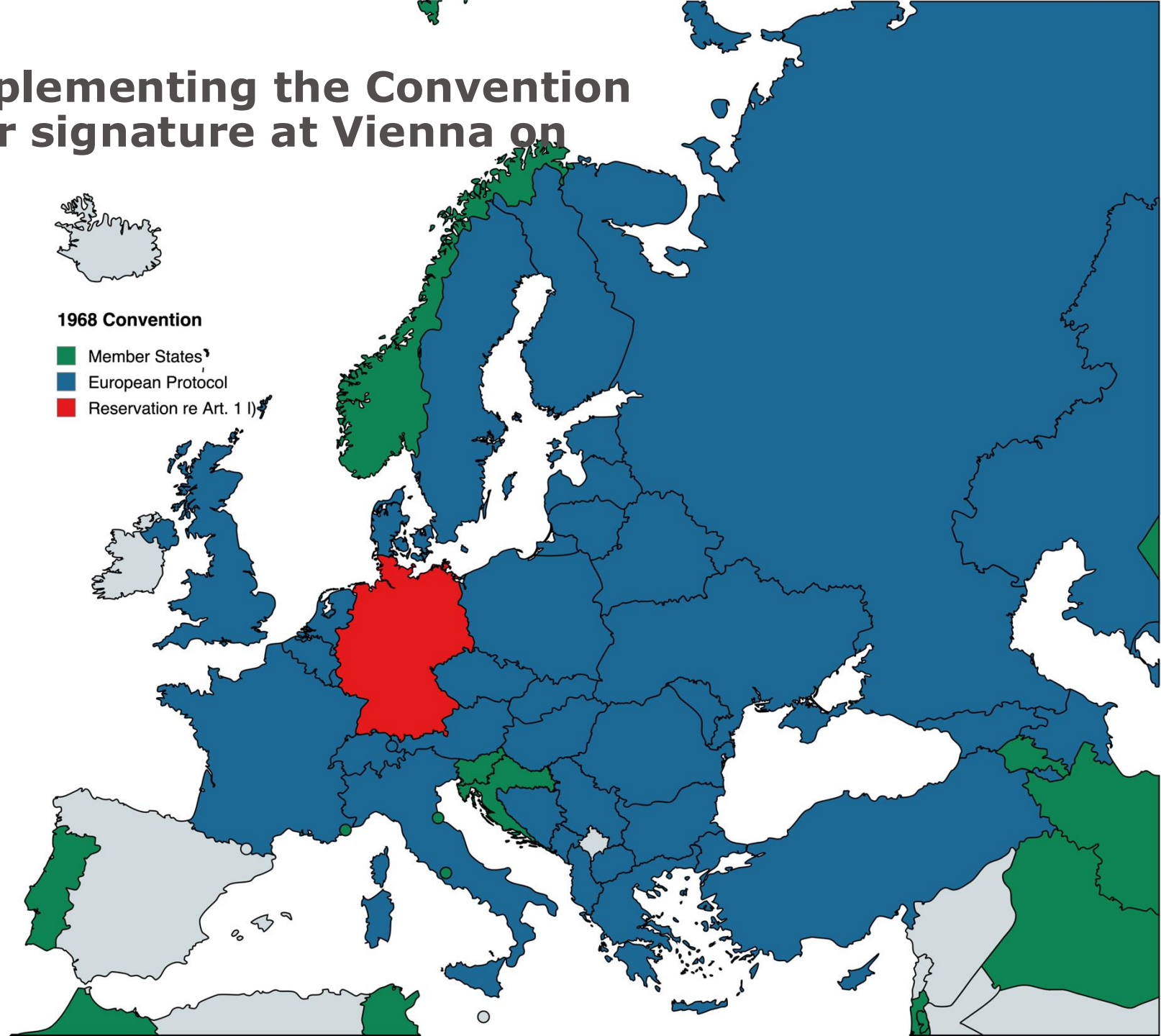
Sub-Paragraph (n)

Three-wheeled vehicles whose unladen mass does not exceed 400 kg (900 lb) shall be treated as motor cycles.



European Agreement supplementing the Convention on road traffic opened for signature at Vienna on 8 November 1968

The Federal Republic of Germany does not consider itself bound by paragraph 3 of the annex (article 1, sub-paragraph (n) of the Convention).



Summary for the 1968 Convention

- No train or tram
- Trolley-truck covered
- H₂ combustion covered
- H₂ fuel cell covered
- E-Bike probably covered



But...

- Can Art. 1 para. 2 CMR be interpreted as referring to the 1968 Convention?
 - Not a dynamic reference
 - CMR member state does not have to be a 1949 member state
 - Not all CMR member states are member states of the 1968 Convention
 - Was the CMR not intended to cover road transport regardless of the propulsion mode?
 - 1968 explicitly replaces 1949 as between its member states



Applying the 1968 Convention to CMR cases...

- LG Regensburg, 28.11.1989 - S 206/89, TranspR 1990, 194:
„Swap bodies do not have their own axles with wheels. They are not vehicles in the sense of the CMR, as the lower court convincingly found. Swap bodies are not the same as trailers or semi-trailers in the sense of Art. 1 lit. q) or r) of the [1968 Convention].“
- This argument was followed by OLG Hamm, 02.02.1995 - 18 U 35/94, VersR 1996, 1304
- OLG Hamburg, 13.03.1993 - 6 U 60/93, TranspR 1994, 193 did not follow the result of LG Regensburg but did not comment of the application of the 1986 Convention
- Basedow (TranspR 1994, 338, 339) criticises the OLG Hamburg decision:
„Art. 1 para. 2 [CMR] ... also refers ... to Art. 4 [1949] for a more detailed definition of these concepts. This Convention was later replaced by [1968], the corresponding definitions of which are contained in Art. 1 lit. o), q), r) and u). You can twist and turn those definitions however you like, but a swap body is not covered by them.



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Thank you!