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### Passenger Claims Departments' Conference

**Bern, 29 September 2016**

The conference will start with an overview of the latest developments in the EU Regulation on rail passengers' rights and obligations (PRR), the new data protection regulations as well as news on the CIT passenger products. Following this introduction the focus will be on practical cases from the passenger claims departments' daily business, being dealt with in groups and then discussed in the plenary session. In the afternoon, SNCB will present the customer care in Brussels south station, followed by interesting cases dealing with assistance for passengers who have missed their connections.

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### General Assembly of the CIT

We cordially invite members to the General Assembly of the CIT. It will be held on Thursday, 17 November 2016 in the CIT head office building (Conference Room A, 1st Floor) at Weltpoststrasse 20 in Bern. The official part of the meeting will begin at 9:00am and will end at 11:30am at the latest. In the second part of the meeting, which will last until 12:30pm, Jean-Pierre Loubinoux, Director General of the UIC, and François Davenne, Secretary General of OTIF, will speak on the "Globalisation of European railway standards".



International Rail Transport Committee  
**General Assembly**

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## EDITORIAL



Dear Readers,

The detailed work of the CIT is determined by the committees, which are responsible for the preparation and further development of CIT documents. Since the last CIT-Info was issued, the committees in the infrastructure and the passenger traffic section have met and specified what the future work of the CIT will be. We report on these meetings and the relevant decisions that were taken.

You will also find in this issue an article on a workshop held on transport law with CIT participation in Baku. Azerbaijan acceded to OTIF in 2015 as its 50th Member State. Other articles cover the first meeting of the CIT's Executive Committee, the CIM and CIV/SMPS working groups and the Conference of the Passenger Claims Departments. I would like to conclude by emphasising the article on legal issues relating to data protection in East-West passenger traffic.

May I wish you a wonderful summer!

I trust you will enjoy reading this latest issue!

**Best wishes from Bern**  
**Cesare Brand**  
**Secretary General of the CIT**



## CIT participates in the COTIF accession workshop in Baku

Following Azerbaijan's recent accession to OTIF to become the 50th member of COTIF, the relevant national authorities, together with Azerbaijan State Railway (ADY), with active support provided by OTIF and the CIT, organised a joint post-accession workshop at the beginning of May 2016 in Baku. The aim of the workshop was to explain the procedures for applying COTIF and its Appendices A (CIV), B (CIM) and C (RID), in addition to the related implementation in practice at railway level with the aid of CIT documents.

In addition to the experts from OTIF, the CIT and Azerbaijan, numerous representatives from Georgia, Turkey and Ukraine participated in the workshop. This meant that a total of more than 50 participants made use of this regional training offer.

With respect to the completion of the Baku-Tbilisi-Kars (BTK) line, which is expected by the end of 2016, priority will be given to examining the use of the CIM consignment note and the CIT freight documents by the Azerbaijan, Georgian

and Turkish railways (ADY, GR and TCDD), which again makes the question of the Georgian Railway joining the CIT a current topic. In addition, according to the presentation given by Ms. Nevin Kaygısız, Head of the Freight Department of TCDD and a member of the CIT Executive Committee, suitable boilerplate regulations for the practical implementation of international freight movements on the Baku-Tbilisi-Kars line, in addition to the border crossing and customs clearance procedures between Turkey and Georgia (border stations, wagon delivery, etc.) will be proposed. The GS CIT will be available for such deliberations in an advisory and coordinating capacity.

Following a visit by the CIT representative to the new Aljat Terminal on the Caspian Sea and subsequent discussions with representatives of ADY and the Kazakhstan Railways (KZD), discussions on the inclusion of the Aljat – Aktau service in the OTIF-CIM list of maritime services are to take place. The CIT will pursue this project further within the CIT's Multimodality Committee.

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*Original: DE*



Azerbaijan recently acceded to OTIF to become the 50th member of COTIF.



## Taking stock of this year's meeting of the CIV Committee of the CIT

Revision of the Rail PRR, which is currently being prepared by the European Commission, will be a core issue for the CIT and its members in the area of passenger traffic in the coming months. However, some new topics, for instance, those related to data protection and multimodal travel solutions, are also becoming increasingly important for CIT members. At its last meeting, the CIV Committee not only adopted some amendments to the CIT documents for passenger traffic, but also discussed the role of the CIT in supporting its members in the above-mentioned new areas.

The last meeting of the CIV Committee of the CIT, held on 23 June at the CIT premises in Bern, took stock of the most recent developments in EU law that might be relevant to international passenger transport by rail. These included the revision of the PRR initiated by the European Commission (the proposal for a revised PRR is expected by the end of the year), the progress on the Fourth Railway Package and the newly adopted General Data Protection Regulation.



The CIV Committee took stock of the most recent developments in EU law that might be relevant to international passenger transport by rail

In the course of the past year, the CIT General Secretariat, together with the CIV Working Group, analysed multimodal solutions rail+ offered in cooperation with the railway undertakings – CIT members. Both the Chair of the CIV Committee, Mrs. Carmen Filipescu, and the Deputy Chair, Mr. Enrico Trapazzo, recognized the importance of CIT's work in this field.

As usual, the CIV Committee also considered the amendments to the CIT documents for passenger traffic prepared by the experts of the CIT members within the CIV Working Group, and adopted some improvements to the GCC-CIV/PRR, the AIV and the MIRT. The amendments to the GCC-CIV/PRR enter into force on 1 October 2016, and to the two latter products on 11 December 2016. The new CIT Passenger Traffic Glossary will also take effect on 11 December 2016.

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*Original: EN*

## Details of the work currently being carried out by the CIV/SMPS Working Group

Following the successful completion of the first phase of the CIT's CIV/SMPS Legal Interoperability project, the CIV/SMPS WG addressed the next challenges to be faced during the seminar in Monte Carlo.

### **Standardised contractual solutions for CIV/SMPS international passenger services from a practical standpoint**

In the second phase of the project, the GS CIT initially intends to complete an in-depth study of the legal and contractual framework for handling the FPC's two direct passenger rail services from Moscow to Nice and Moscow to Paris in particular. In view of a first part of carriage performed by successive carriers within the SMPS scope of application, a series of interesting legal questions arises in terms of rail transport law relating to the performance and handling of the entire carriage in the scope of application of both the SMPS and COTIF/CIV legal regimes as shown on the diagram on the next page.

Carriage performed by a substitute carrier is intended to mean in casu that an RU that has concluded a contract of carriage with the traveller or that is involved in the contract of carriage as a successive carrier shall transfer his carriage service completely or in part to a substitute RU, which will then have a contractual relationship with the principal transferring RU, not however with the passenger (Art. 3 lit. b CIV). Seen from a legal viewpoint, the substitute carrier acts as an auxiliary, which is supplemented, however, by a special liability regime: in accordance with Article 26 § 5 sentence 2 CIV (death and injury) and Article 39 § 4 CIV (loss, damage or delayed delivery of luggage and vehicles), the liability of the principal and the substitute RU shall be joint and several.

What is also quite conceivable is the combination of successive carriers within the SMPS scope of application and substitute carriers within the COTIF/CIV scope of application, in which RU1 and RU2 and RU3 for example act as successive carriers in a transport chain and RU1 entrusts the performance of part of the carriage to RU 4, 5 and 6 in the CIV scope of application. In this case, RU 4, 5 and 6 will not appear on the ticket.

### Work Programme for 2016–2018

For the Work Programme for 2016–2018, the CIV/SMPS Working Group has agreed on a prioritisation of the list of topics to be dealt with in the second phase of the project, as follows:

- Standardised contractual solutions for international CIV/SMPS passenger services from a practical standpoint (boilerplate contracts for the model of successive carriers and all substitute carriers);
- Use of the new CIT passenger traffic documents by RZD/FPC, BC and UZ passenger services, in particular the Manual for International Rail Tickets (MIRT) and the Manual for Cooperation Contracts in International Passenger Traffic by Rail (MCOOP);
- Comparison of tickets based on the new CIT Manual for International Rail Tickets (MIRT) and the use of the CIT background by FPC/RZD and UZ, in addition to legal safeguards in CIS countries;
- Data protection issues in East-West passenger traffic (primarily the new EU data protection regulation);
- Impact of the PRR revision on CIV/SMPS traffic, in particular regarding the potential extension of the PRR scope of application to include substitute carriers and/or traction providers, in addition to potential amendments to the modalities for exemptions in accordance with Article 2(6) PRR;

- Impact of the preparation of a draft of the Convention concerning International Carriage by Rail, with an Annex on international passenger services within the framework of the OSJD on East-West services;
- Legal support for the work performed by the East-West Tariff Steering Group of the UIC.

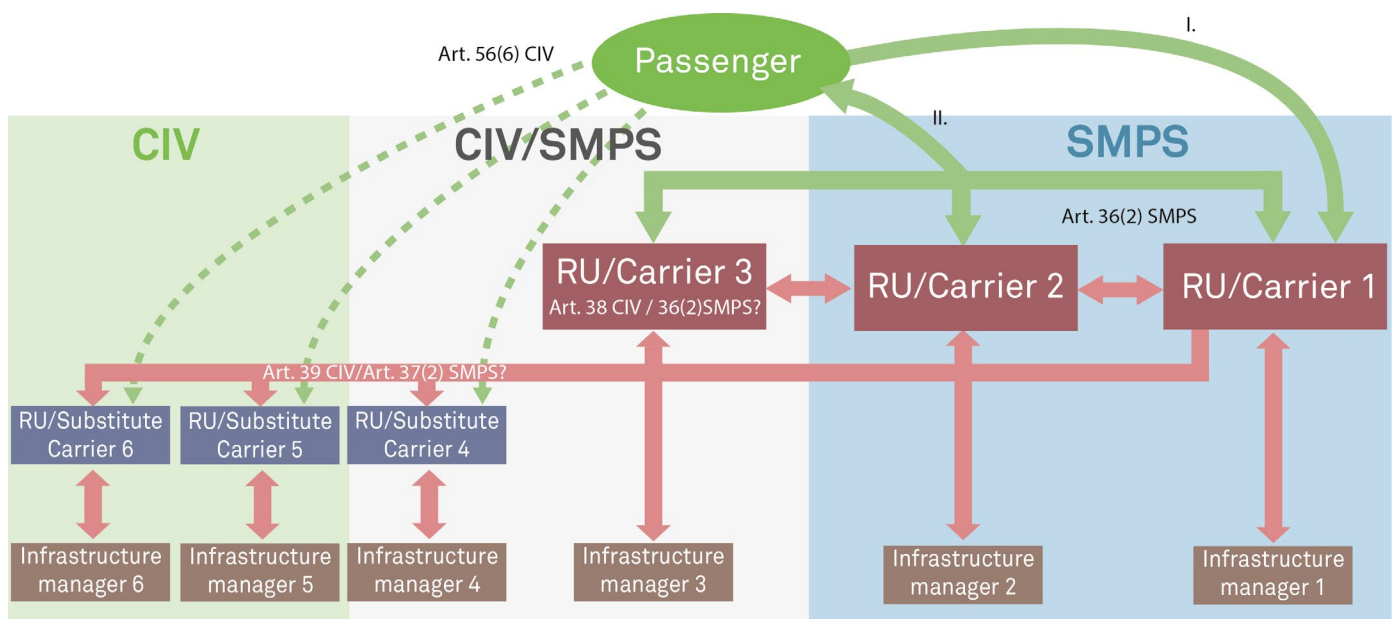
#### Next meeting

The next meeting of the CIV/SMPS Working Group will be held on 26 October 2016 in the CIT head office building in Bern.

The CIV/SMPS Working Group welcomes the participation of representatives of LG, PKP Intercity and UZ at the October meeting to successfully work through the topics planned for the second phase of the project.

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Original: DE



Successive carrier in accordance with SMPS and a (series of) substitute carrier(s) in accordance with CIV UR.

## Transfer of personal data to non-EU countries in international passenger traffic

Passenger data collected for ticketing, after-sales activities (e.g. claims handling) or marketing purposes sometimes need to be transferred from the territory of the EU to other countries. Whenever personal data is transferred to third countries (apart from Iceland, Liechtenstein and Norway forming the European Economic Area (EEA), which apply the EU law on data protection), such transfer is subject to a special set of requirements both under the current Data Protection Directive and the new General Data Protection Regulation (Regulation 2016/679, GDPR).

The transfer of passenger data to third countries requires special precautions due to the fact that other countries around the world may not have a sufficient level of protection for personal data in comparison to the EU. The main rule envisaged both by the Data Protection Directive and by the GDPR is that personal data can only be transferred to countries outside the EU and the EEA when an adequate level of protection is guaranteed. The European Commission has confirmed the adequate level of personal data protection (so called adequacy decisions) in a number of countries, including Canada, Switzerland, Israel, Argentina and some others.



Whenever there is no adequacy decision by the European Commission, there are certain other solutions available to businesses to enable the lawful transfer of personal data (see Article 46 of the GDPR). Appropriate safeguards include:

- Legally binding instrument between public authorities;
- Binding corporate rules (internal rules for multinational groups of companies), approved by the supervisory authority;
- Standard data protection clauses adopted by the Commission (so far the European Commission has issued two sets of standard contractual clauses for transfers

from data controllers to data controllers (Decision 2001/497/EC and Decision 2004/915/EC) established outside the EU/EEA and one set for the transfer to processors established outside the EU/EEA (Decision 2010/87/EU));

- Standard data protection clauses adopted by the supervisory authority and approved by the Commission;
- Approved code of conduct with binding and enforceable commitments of the controller/processor in the third country to apply appropriate safeguards (e.g. contractual clauses between controllers/processors);
- Approved certification mechanism with binding and enforceable commitments of the controller/processor in the third country to apply appropriate safeguards.

At the same time, the new GDPR, similarly to the currently applicable Directive, provides for a number of derogations that can be used in specific situations. For rail carriers, some of these derogations may be of special practical interest. For instance, data transfer would be allowed where the data subject has been informed of potential risks about data transfer and has explicitly consented to the proposed transfer or where the transfer, is necessary for the performance of a contract (e.g. contract of carriage).

The CIT General Secretariat will closely follow the implementation of the new GDPR and discuss all relevant practical cases at the upcoming meetings of the CIV and CIV/SMPS Working Groups.

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## 21st meeting of the CIM Working Group of the CIT

The CIT's main project at the moment, which deals with the CIM electronic consignment note and the CUV electronic wagon note, was the key focus of the first meeting of the CIM Working Group (CIM WG) this year. The GS CIT prepared the legal and functional specifications of the CIM electronic consignment note and the CUV wagon note with its members at sector level based on the principle of functional equivalence in accordance with Article 6 § 9 CIM. Parallel to this, the GS CIT will support RailData in the finalisation of the technical specifications as part of the e-RailFreight project.

### Judicial recognition of digital (transport) documents, including the need for an electronic signature

With regard to the practical implementation of the CIM electronic consignment note and the increase in digitisation in the railway sector, recognition of digital documents and electronic signatures by the national courts and other authorities as evidence of the validity of a contract (Art. 6 § 2 CIM) is important. The CIM WG had therefore instructed the GS CIT, with the support of the participants at the CIM WG meeting, to prepare an overview of the situation in a number of countries with the aid of the following questions:

- Are electronic documents generally recognised by the respective national courts as part of the free appraisal of evidence?
- Are transport documents (consignment note and accompanying documents such as designations of origin, plant health certificates, dangerous goods certificates, etc.) recognised by the respective courts?
- If electronic documents are recognised, is an electronic signature then required by the court as evidence?
- Are electronic documents permitted for the archiving of data and as warranty certificates for presentation to tax and financial authorities?
- For what purposes are electronic documents otherwise provided and recognised?

These questions were presented at the 21st meeting of the CIM WG for Switzerland, Poland, Germany and Bulgaria. The CIM WG also agreed that these questions were to be analysed for other countries, in order to obtain an overall picture of the situation and to be able to draw further conclusions. The CIM WG is also of the opinion that for further analyses an additional question should be clarified, namely to what extent communications with the national courts and respective authorities can be carried out electronically or in which countries this is already being practised.

For further work on the digital signature, Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market (the eIDAS Regulation), which has been in force since September 2014, is also to be taken into account. The substantive provisions of the



The CIM electronic consignment note and the CUV electronic wagon note were the key focus of the CIM Working Group.

Regulation shall apply immediately as of 1 July 2016. What is new in the eIDAS Regulation is that explicit rules of procedure and evidence have been included. As a result of the eIDAS Regulation, the legal options available for verifying evidence with greater certainty have now been extended. It is still not clear, however, how the national courts intend to implement the new regulations in practice.

### Completing the electronic formal report form CIT20

Taking into consideration the results of the previous work carried out by the CIM WG, the information obtained from CIT's last Conference of the Passenger Claims Departments and the additional suggestions made by DB Cargo, at the next meeting of the CIM WG on 30 November/1 December 2016, work will begin on preparing the following datasets and message flows for completing the electronic formal report, in particular:

- Definition of the functional specifications in the new Appendix 20b to the GTM-CIT (similar to the previous Appendix 7b GTM-CTM / the new Appendix 1 to the GLV-CIM);
- Reference in the working sheets (processes) of the GTM-CIT regarding the digitisation of Appendix 20 (CIT20);
- Agreement with RailData on its inclusion as an accompanying document in the electronic consignment note in accordance with Version 1.4 of the technical specifications.

With regard to the regulations relating to the forwarding of the electronic document, the question of verification by (electronic) signatures or another form of identification should also be examined.

### Wagon law

After completing a series of negotiations on the revision of the regulations relating to liability in the event of damage caused by a wagon (Article 27 of the General Contract of Use for Wagons - GCU), UIC, UIP and ERFA have achieved a compromise, which was presented at the meeting of the Wagon Users Study Group on 24 May 2016. From the jointly drafted text, the legal bridge is clear between Article 7 GCU (Technical admission and maintenance of wagons) and Article 27.1 GCU (Principle of liability), according to which, and what is new, presumed liability of the keeper in accordance with Article 27.1 GCU is also included for faulty technical admission and maintenance of his wagons in accordance with Article 7 GCU.

### CIT workshop on the electronic consignment note in 2017

Following the statutory section of the next meeting of the CIM Committee on 23 March 2017, a CIT workshop on the CIM electronic consignment note and the CUV wagon note will be held during the afternoon in Bern. After the CIM Committee meeting has been held, and based on the outcome of the discussions during the CIT workshop, a report on the legal and functional specifications of the CIM consignment note and the CUV wagon note will also be presented to the Secretary General of OTIF.

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## CIT's Conference of Freight Claims Departments 2016

The Conference of Freight Claims and Legal Departments on 19 May 2016 in Berne dedicated its first module to the topical items "Claims settlement in the various models of carriage" and "Effects of competition law on the work of claims departments". By way of introduction, the main work under way and CIT projects were presented. The second module was organised with different themes in workshops, which enabled participants to exchange their points of view and to find new ideas and propositions. Finally, a third module was provided for participants which was dedicated to networking.

### "Claims settlement in the various models of carriage" and "Effects of competition law on the work of claims departments"

In his introduction, Mr Evtimov (CIT) presented CIT's work currently under way and the current situation of international freight transport law, particularly regarding recent developments in legal models for transport. He emphasised advances that had been made in the context of work concerning legal and functional specifications for the electronic consignment note that were approved by the CIM Committee in March 2016 and that will enable the publication of new Manuals on 1 January 2017. The collaboration with RailData with a view to finalising technical specifications and the implementation of the EU Customs Code of 1 May 2016 in the CIT products will constitute the next stages. Mr Evtimov also presented an overview of the projects in the field of freight traffic, in particular CIM/SMGS legal inter-



the Conference achieved the set objectives: to contribute to the advanced training of CIT members' staff, to develop relations between customer departments of the members of the CIT and to provide a platform for exchanges of views on topical themes.

operability, and on the work in progress for the development of a legal framework for the pilot transport of postal items from China to Europe.

Mr Baumeler (SBB Cargo) presented the different transport models before examining the handling of claims for each model. Drawing on legal bases, for the successive carrier (Art. 26 CIM) and for the substitute carrier (Art. 27 CIM), he showed how rights in case of loss or damage can be asserted.

Mrs Rumpold (RCA) firstly presented the legal positions of competition law drawing on the legal bases of European law (Art 101 et seqq. of the Treaty on the Functioning of the European Union) and national law. She then presented the influences of competition law in the different models for carriage that are regulated within the CIM.

### Questions of general interest

In the second part of the conference, participants were offered three work groups to give them the opportunity to

express their opinions, to compare their points of view and to engage in exchanges on the issues raised.

This year, the workshops focused on the following questions:

- Based on a real case example, the application of the CIM UR and the AIM were examined, in particular the handling of a claim for damages using formulae that facilitate exchanges between RUs. The handling of claims in rail-sea traffic based on the GTC Rail-Sea traffic (2015) and in GTC CIM/SMGS with the modifications of Appendix 10 AIM (01/07/2016) was discussed.
- With the report, and solutions for affixing and recording seals, participants were invited to examine a practical case example and to use the CIT documentation in relation to seals. Substantive proposals to assist staff on the ground were detailed.
- Concerning the electronic CIM consignment note and electronic CUV wagon note, the examination of solutions for an electronic formal report and an electronic wagon damage report with the representatives of claims departments enabled new suggestions to be formulated.

At the end of the conference, a rapporteur from each group presented the result of these discussions to the plenary session. The ideas for solutions that were generated in the workshops will be pursued in greater detail at the next CIM Working Group of the CIT in June 2016.

### In summary

Once more, with the richness and quality of the discussions, the Conference achieved the set objectives: to contribute to the advanced training of CIT members' staff, to develop relations between customer departments of the members of the CIT and to provide a platform for exchanges of views on topical themes.

The next Conference of Freight Claims Departments will take place on Thursday 18 May 2017 in Berne, at CIT's head office.

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*Original: FR*



## USE OF THE INFRASTRUCTURE

### The CUI Committee bids farewell to its acting Chair

The 22nd meeting of the CUI Committee was chaired for the last time by Marie-Ghislaine Hénuset (SNCB/NMBS). The meeting focused on details of the revision of the CUI Uniform Rules and information relating to the international train-path allocation process. The meeting began with the traditional discussion among the participants on recent developments in international law and relevant court cases.

#### Discussion and information on international law and court judgments

Members of the CUI Committee use the meetings regularly to share information and views on cases before their respective national courts and then to discuss them during the meeting. The focus of attention this time was a decision taken by a Higher Administrative Court in Germany, which had had the task of clarifying whether a long-distance passenger service that DB Netz AG had been notified of by SNCF can claim the "international train path" priority criterion on the Aachen-South – Dortmund section of track in Germany if, when the notification was made, it was also stated that the "train will be coming from/going to Paris (1)". For any international work relating to the use of infrastructure, this decision is important, since the German court in this case set (narrow) criteria by insisting that a train path may only be an international one.



The Secretary General of Forum Train Europe presented the international train path allocation process.

(1) Further information on the decision is available in No. 1/2016 of the Bulletin of International Carriage by Rail OTIF (link at the end of this article).



## Work on the partial revision of the CUI Uniform Rules (CUI UR)

In June 2014, during the 25th meeting of the OTIF Revision Committee, the Secretary General decided to set up a working group reporting directly to him that would assist him in the examination and preparation of any proposed amendments to the CUI UR. The GS CIT participates in the meetings of the CUI Committee of OTIF as an observer, in order to represent the interests of the RUs in the work carried out by the Committee. In the meetings held to date, the OTIF working group has deliberated on a number of proposals for a new version of Article 1 of the CUI UR (scope of application) and on the carrier's right of recourse with respect to the infrastructure manager (currently Article 8 CUI UR). With regard to the scope of application, the term "international railway traffic<sup>(2)</sup>" was also discussed. According to the current draft of the text, this requires the use of international train paths or successive national train paths, which must be coordinated by the infrastructure operators.

For further discussion on the revision of the CUI UR, the CUI Committee had invited the recognised transport law expert Prof. Dr. Freise, who provided the members of the committee with some important details relating to the background of the revision.

The participants at the CUI Committee meeting discussed the CIT's position on this basis in anticipation of the meeting of the CUI WG of OTIF on 31 May 2016 and the next steps to be taken in the revision work. As far as the CUI Committee of the CIT was concerned, it was very important that the element relating to the coordination between infrastructure managers that is included in the current definition of "international railway traffic" be replaced, since this level of coordination could not always be guaranteed. In addition, the carrier's right of recourse with respect to the infrastructure manager must be firmly anchored throughout, in addition to any other damages subject to the CIM UR and CIV UR (e.g. "PRR" compensation) that can be claimed as part of the carrier's right of recourse with respect to the infrastructure managers.

(2) The current draft stipulates that the expression international railway traffic [refers to] "traffic which requires the use of an international train path or several successive national train paths situated in at least two states and coordinated by the infrastructure managers concerned."



A small farewell celebration was held at the end of the meeting.

## The international train path allocation process

On the subject of the international train path allocation process, the GS CIT had invited the Secretary General of Forum Train Europe, Peter Jäggy, who provided an overview of what is generally understood by the topic. Knowledge of what is generally understood by the topic. Knowledge of the international train path allocation process, as the CIT sees it, is a fundamental requirement when considering the revision of the CUI Uniform Rules and in particular the scope of application of the relevant legal provisions to ensure that they are not only consistent with the law, but also meet the practical circumstances of the business operations.

## Farewell and election of the new Chair

The 22nd CUI Committee meeting was also the last committee meeting chaired by Marie-Ghislaine Hénuset, as she retires this summer.

The CUI Committee took the opportunity to thank Marie-Ghislaine for her outstanding commitment to international railway traffic as a whole - and not just for the CIT - and to wish her all the best for the future. At the end of the meeting, the Committee was able to ascertain Marie-Ghislaine's succession and was delighted that Adriaan Hagdorn from NS wished to take on the duties of the Chair, so that Adriaan's candidacy will be put forward to the General Assembly of the CIT in November for election as the Committee's new Chair.

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*Original: DE*

### Useful link

➔ [OTIF's Bulletin of International Carriage by Rail](#)



*In this section, we publish details of legal decisions concerning rail transport and related areas of law, statements from public authorities and legal advice from the CIT General Secretariat on the practical legal issues that arise in daily life.*

## Loss of hand luggage – when is the carrier responsible under the CIV UR?

When travelling by train, personal belongings can sometimes get stolen. Article 15 CIV UR explicitly recognises the responsibility of passengers to supervise their hand luggage. But what if a representative of the train staff asks a passenger to put his suitcase in a special space designated for hand luggage, which does not fit under the seat or on the shelf above the seat? Does liability shift in this case? In its recent decision the Highest Court of Austria (“Oberster Gerichtshof”) clarified the status of responsibility for the hand luggage on board a train.

In case 10b231/15z the Highest Court of Austria dealt with a claim by a passenger travelling from Budapest to Salzburg, whose luggage was stolen while stored in a special luggage space, which was not clearly visible from the passenger’s seat. The passenger claimed damages of 7,600 EUR due to the fact that in light of the indication by the train staff to keep the suitcase in the storage space – the obligation of supervision passed from the passenger to the carrier and its staff.

The Highest Court of Austria did not share the passenger’s arguments and in its decision, recalled the fact, that it is the passenger’s right to carry hand luggage free of charge in a coach, but only in spaces specifically designated for this purpose. Therefore, the indication by the train staff was just a clarification of this right of the passenger. Further, the court could not find any other fact in the case that would possibly suggest that the stolen piece of hand luggage was stored in a special compartment for registered luggage (i.e. was consigned as registered luggage), and that the passenger’s obligation of supervision had passed to the carrier and its staff. This is also in line with Article 36 §1 CIV, according

to which the carrier is liable for loss or damage to the registered luggage between the time of taking over by the carrier and the time of delivery. Notably, the court based its decision on the Rail Transport Act (“Eisenbahnbeförderungsgesetz”) implementing the CIV UR.

The CIV UR, apart from recognizing the passengers’ obligation to supervise their hand luggage in Article 15, provides for two exclusive conditions when the liability for the loss or damage to the hand luggage shifts to the carrier: (i) when damage to, or loss of the hand luggage is directly linked to the incident of death of, or personal injury to the passenger; or (ii) where such loss or damage to the hand luggage is caused by the fault of the carrier (see Article 33 CIV UR). Thus, unless the fault of the carrier is given, it is for the passenger to take due care of his hand luggage while travelling by train.

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## Completing the formal report (CIT20)

Who is responsible for completing the formal report and what functions is the formal report required to fulfil? How is the term “carrier” as stated in Article 42 § 1 CIM to be understood for these purposes? What are the key features of the formal report?

### Legal definition in accordance with CIM UR

When partial loss or damage is discovered or presumed by the carrier or alleged by the person entitled, the carrier must without delay, and if possible in the presence of the person entitled, draw up a report stating, according to the nature of the loss or damage, the condition of the goods, their weight and, as far as possible, the extent of the loss or damage, its cause and the time of its occurrence; such is the legal definition of Article 42 § 1 CIM. The term “carrier” is a col-

lective term in the CIM UR and in the CIT’s documents. It is understood to mean the contractual or a successive carrier. In addition, a substitute carrier or an auxiliary is required to complete the formal report depending on the situation in accordance with Article 27 § 2 CIM and Article 40 CIM on behalf of and for the account of the contractual or successive carrier.

### Standardised form for the formal report based on CIT20

A standardised form for the formal report on the basis of Article 42 CIM is included in Appendix 20 of the GTM-CIT. The application of the GTM-CIT, in accordance with Section 2.5 b) of the CIT statutes, is mandatory for CIT members as a result of their membership (it is only possible to “opt out”). Working sheet 06-01 in the GTM-CIT, which describes the action to be taken in the event of loss and damage, is also binding for CIT members. When partial loss or damage is discovered or presumed by the carrier or alleged by the person entitled, the carrier must without delay, and if possible

in the presence of the person entitled, fill out a Form CIT 20 formal report. The binding legal basis for this is Article 42 §1 CIM.

A form available on the CIT website ([www.cit-rail.org](http://www.cit-rail.org)) provides members with the possibility of copying, printing out and forwarding the formal report electronically.

Finally, it must be pointed out that the function of the formal report is primarily to collect and record facts relating to the loss or damage of the goods and not to include a statement relating to the carrier's liability.

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## CIT ITSELF

### Spring meeting of the CIT Executive Committee

The first meeting of the CIT Executive Committee this year was held on 28 April 2016 in the CIT head office building in Bern and was chaired by CIT Chairman, Jean-Luc Dufournaud (SNCF). The traditional Berner Tage conference of the CIT and the further development of passenger, freight wagon and use of infrastructure documents were the focus of attention during this first meeting.

#### Pleasing result for 2015

The 2015 income statement presents a surplus of CHF 11,780. Equity increased accordingly from CHF 475,096 to CHF 486,876. The audit body examined the financial statements of the CIT and recommended their approval by the General Assembly.

#### Changes on the Executive Committee

Ms. Kuznetsova has informed the Secretary General of the CIT that she has taken on a new position outside RZD. The GS CIT will accordingly reply to the letter from the Head of International Relations, Sergey Stolyarov, proposing that RZD nominate a suitable person for the CIT Executive Committee as a replacement for Ms. Kuznetsova.

#### Work Programme for 2016

The Executive Committee noted with satisfaction the information included in the General Secretary's report that the work programme for 2016, which was approved by the 2015 General Assembly, will be implemented as scheduled.

#### Berner Tage 2016

The CIT's Berner Tage conference was held on 3/4 March 2016 in the CIT head office building in Bern. The Executive Committee discussed the outcome of the survey conducted among the participants. The feedback was very positive. With 75% in favour of the Berner Tage conference as a whole and 68% in favour of the CIT's accompanying training programme, the events received ratings from good to very good.



CIT Chairman, Jean-Luc Dufournaud opens the spring meeting of the CIT Executive Committee in Bern.

The "Round Table of the General Counsel", which took place for the first time ahead of the Berner Tage conference, was well received and for the coming Berner Tage conferences could be integrated into the evening event between the two days of the conference.

With regard to the future organisation of the training programme, the Executive Committee decided to commission the GS CIT to conduct a survey among the members.

#### Autumn meeting of the Executive Committee planned in Geneva

The autumn meeting of the Executive Committee has been scheduled for the 22 September 2016 in Geneva.

*Erik.Evtimov(at)cit-rail.org*

*Original: DE*

# Conference of Passenger Claims Departments, Bern, 29 September 2016

The joint CIT and UIC Passenger Claims Departments' Conference will this year take place on 29 September in the Universal Postal Union building in Bern. It is intended primarily for staff of the claims, sales and legal departments of CIT members.

During the morning session, participants will be given an overview of the most recent developments in the EU regulation on rail passengers' rights and obligations (PRR) as well as interesting cases before the courts and the national enforcement bodies (NEBs).

Furthermore, there will be presentations on the new EU data protection legislation, an interesting report from Denmark on how the recently established border controls between Denmark and Sweden have affected the customer care at DSB, as well as an update on the news in the CIT products.

In the afternoon session the customer service department of SNCB will give a presentation on the customer care in Brussels south station, one of busiest railway hubs in Europe.

➔ [Flyer / registration](#)





## CIT DIARY OF EVENTS

Date	Event	Location	CIT contact
7/8 September	CIM/SMGS Steering group	Warsaw	Erik Evtimov
22 September	Executive Committee 2/2016	Geneva	Cesare Brand
29 September	Conference of Passenger Claims Departments	Bern	Jan Svensson
18-19 October	CIV Working group	Bern	Tetyana Payosova
20 October	Group of experts on Seals	Mainz	Joël Forthoffer
26 October	CIV/SMPS Working group	Bern	Erik Evtimov
27 October	Electronic Consignment Note ad hoc group CIM/SMGS	Warsaw	Lothar Schneemann
17 November	CIT General Assembly	Bern	Cesare Brand
18 November	Multimodality Committee	Bern	Erik Evtimov, Nina Scherf
30 Nov. - 01Dec.	CIM Working group	Bern	Erik Evtimov

## Events with CIT participation

Date	Event	Org	Location	CIT contact
18-19 August	Postal pilot transportation by rail	UPU	Bern	Erik Evtimov
23 August	Friends of the Chair	UNECE	Geneva	Cesare Brand, Erik Evtimov
8-9 September	Generalversammlung VöV	VöV	Lugano	Cesare Brand
13 September	Ticketing Layout Group (TLG) Meeting	UIC	Antwerpen	Jan Svensson
14-15 September	XXV Plenary Meeting of the CCTT	CCTT	Ulan Bator	Jean-Luc Dufournaud
14-15 September	Ticketing Security Group (TSG)/IRT Meetings	UIC	Antwerpen	Jan Svensson
15 September	UIC Studiengruppe Güterwagenverwender	UIC	Praha	Erik Evtimov, Nina Scherf
19 September	MN-Committee & General Assembly	CER	Berlin	Cesare Brand
20-21 September	Innotrans Conference	Innotrans	Berlin	Cesare Brand
27-28 September	TAP MD ad-hoc group	UIC	Bern	Tetyana Payosova, Jan Svensson
4-5 October	UIC Commercial/Technical Groups	UIC	Paris	Jan Svensson, Tetyana Payosova
10-13 October	UIC technical groups meetings	UIC	Paris	Jan Svensson
10-12 October	Railway Pro Summit	Railway Pro	Bucuresti	Cesare Brand
10 October	Freight Steering Committee	UIC	Paris	Erik Evtimov
11 October	CER Passenger Working Group	CER	Brüssel	Tetyana Payosova
12 October	CER Customer Liaison Group	CER	Brüssel	Tetyana Payosova
27 October	Rail Workshop Ägypten	Euromed	Le Caire	Cesare Brand
28 October	Green Logistics. Ideas. Practice. Prospects	RZD	Moskau	Erik Evtimov

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