



## CONTENT



### Next schedules Passenger and Freight:

CIV Working Group: 25-26.05.2021

CIM Working Group: 23-24.06.2021

- 2 DB Netz AG's obligation to pay compensation for delays
- 3 NIS 2 Directive
- 4 51st meeting of the CIV WG
- 5 Data protection: as crucial a topic as ever
- 5-6 Data protection conference
- 7 Ticketing: Old ticket layouts being phased out
- 8 News from the meeting of the CIM Committee
- 9 New look and feel of supplements to CIT products
- 9 TAF revision is now reality
- 10 CUI Committee
- 11 Law and practice
- 12 Calendar



## EDITORIAL

Dear readers,



We have been fighting the Covid-19 pandemic for over a year now. The world of work has changed fundamentally. Working from home, online meetings, "please raise your hand", switch camera on and off, mute and unmute microphone, "can you hear me?" ... we are now all familiar with what has become the new routine ...

Let us look at the positive side, though: despite the new all-digital environment, we can carry on working. And worked we have at CIT: since the beginning of the year, we have successfully held meetings of the CIM and CUI Committees, the CIV Working Group and the Data Protection Group of Experts, as well a workshop on data protection issues attended by over 90 people.

You can read all about them in this issue of CIT-Info.

And let us hope we will return to our much-missed normal working life after the summer break!

I hope all our readers remain in good health meanwhile!

Best wishes from Bern

**Cesare Brand**  
CIT Secretary General



## Ruling of the German Federal Court of Justice (Bundesgerichtshof) of 3 February 2021 (case no. XII ZR 29/20) on DB Netz AG's obligation to pay compensation for delays

In its ruling of 3 February 2021, the German Federal Court of Justice (Bundesgerichtshof or BGH) acknowledged the appellant's right in principle to claim compensation from DB Netz following the belated provision of allocated train paths. The case was referred back to the lower court. The facts of the matter (I.) and the principal grounds for the decision (II.) give cause to conclude (III.) that in determining such liability issues, civil law – in particular, monitoring the terms of the network statement – will be increasingly relevant in future.

### I.

1. The basis for the decision was the appeal lodged by a railway undertaking (RU) supplying local passenger rail services under contract with the transport commissioning authorities, in which the RU had undertaken vis-à-vis its contractual partners to operate the contractually-agreed services punctually. The contracts provided for penalties in the event that services were not performed punctually. In the reference year of the dispute (2013), penalties totalling approx. 200,000 Euro were levied on the RU for missing its punctuality targets. The RU claimed this amount from DB Netz as compensation, since DB Netz was responsible for punctually delivering the train paths (which had been correctly ordered and allocated).

2. The appeal had been rejected in the lower courts: the district court (Landgericht) had rejected it on the grounds that DB Netz AG had no duty to deliver allocated train paths punctually. By contrast, the appeal court (Oberlandesgericht) had recognised that in principle, parties to the contract of infrastructure use were duty-bound to punctually deliver allocated train paths. However, general liability was excluded under the provisions of the network statement applicable at the time and their normative basis in the earlier German Federal Railway Law (AEG) and the Regulations on the Use of Railway Infrastructure (EIBV), in particular the provisions relating to reduced charges as a result of non-contractual track condition and to the incentive scheme. Furthermore, the court added, it could not be in the interests of the parties to the contract of infrastructure use if risks were transferred onto DB Netz from the (downstream) contract to run local passenger rail services.

### II.

The BGH upheld the fundamental principle identified by the Oberlandesgericht whereby the parties to the contract of infrastructure use accepted that allocated train paths must be punctually delivered. The BGH also found that the lower court was wrong to exclude liability on the basis of the provisions of the network statement applicable at the time, for the following reasons:

First, the provisions relating to reduced charges as a result of a non-contractual track condition did not permit the interpretation whereby claims for compensation on other grounds were excluded. The wording of the network statement was lacking any explicit rules in this regard, despite liability for damage to property and individuals being covered elsewhere in the text, specifically in connection with liability for “involved RUs”.

The notion that the provisions governing reduced charges implicitly ruled out claims for compensation was contradicted by the very purpose of said provisions: not only did reduced charges and compensation pursue different protective aims, but they also had different consequences in law. Compensation, in particular, was designed to place the claimant in the same position as if the event which caused the damage had never happened.

Moreover, any “blanket exclusion” of compensation claims on the basis of the network statement, should it also exclude liability for intentional or grossly negligent failure to perform a contractual duty, would unduly disadvantage one party to the contract under § 307 paras 1 and 2 in connection with § 310 para 1 line 2 of the German Civil Code (BGB). All the more so if the exclusion from liability was not clearly and unambiguously derivable from the wording but required interpretation to arrive at it.

Since the lower court had understood the provisions of the network statement to be definitive and had validated the blanket exclusion from liability on the basis of its reading thereof, the BGH referred the dispute back to the lower court to examine what specific breaches of contract had occurred and determine the resultant damage. Allowance could be made for the claimant RU's difficulties, to the extent these existed, by reducing the burden of demonstration and proof if need be.

### III.

1. This ruling makes clear that “unpunctuality” in delivering correctly ordered and allocated train paths constitutes grounds in principle for the affected party to make a claim for compensation. Such claims are not implicitly ruled out by other clauses in the contract of infrastructure use which also cover parties' lack of punctuality. In particular, this applies to the provisions in the network statement relating to reduced charges for non-contractual track condition or to the incentive scheme. Any blanket exclusion from liability would be impermissible if liability for intentional and grossly negligent failure to perform a contractual duty were encompassed by said exclusion. In order to overcome a party's difficulties substantiating a breach of contract, the BGH considers it possible to reduce the burden of demonstration and proof. In this context, it remains only to await the additional findings of the lower court to which the BGH has referred the case back.

2. Although the BGH's observations were prompted by the specific case of an RU claiming against DB Netz, they apply to both parties to the contract of infrastructure use: if the infrastructure manager is responsible for the unpunctual use of the path, it may be liable for this unpunctuality. For its part, if the RU is unpunctual and responsible, then it is liable vis-à-vis the infrastructure manager. It is also conceivable that “liability chains” could exist in which one RU asserts that the infrastructure manager is responsible, even though a different RU is actually the one in breach of contract. In such instances in particular, an easing of the burden of demonstration and proof could be decisive.

3. We may conclude from the above that, with the acknowledgement in principle of parties' right to make a general civil claim for compensation for "unpunctuality", it is no longer necessary to lodge such claims under a specific field of law. The BGH has also paved the way for an easing of the procedural difficulties arising, in particular as concerns the need to demonstrate and prove a party's failure to perform its contractual duty. In future, civil law – including monitoring the terms of the network statement – will be increasingly relevant in determining liability issues in connection with the unpunctual delivery of allocated train paths.



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Original : DE

## Revision of the Directive on the security of network and information systems («NIS 2 Directive»)

*In late November 2020, the European Commission announced a revision of the Directive on the security of network and information systems. This article provides an overview of the background to the directive and seeks to pinpoint why it is also of significance for the rail sector.*

### Introduction

The NIS Directive is the first piece of EU-wide legislation on cybersecurity. Its aim is to achieve a high common level of security of network and information systems across the EU and bolster the EU's resilience against cybersecurity risks.

Following the directive's entry into force in 2016, EU Member States had until mid-2018 to adopt the domestic legislation necessary for them to comply with it. The directive seeks to promote a culture of corporate risk management for companies and other bodies defined in Article 5 of the directive as "operators of essential services". The term "operators of essential services" is of decisive importance for the obligations stemming from the directive. Said operators can be private or public-sector companies whose business is critical to societal and economic activities. Rail transport is mentioned as a (sub-)sector falling under the NIS Directive; as such, railway undertakings may be encompassed by the directive as operators of essential services. Such operators must, inter alia, take appropriate and proportionate organisational measures to control risks to the security of their networks and information systems. In addition, they must report serious security incidents to the competent authorities.

### Challenges in rail transport

Railway undertakings and infrastructure managers are the principal actors ensuring cybersecurity in the railway sub-sector. The rail sector is currently undergoing a "digital transformation", and at the same time must accommodate the various systems of its contractual partners. This environment is a huge challenge, since a balance must be struck between operational requirements, business competitiveness, and cybersecurity.

### Next steps

As part of a consultation on the implementation of the directive, the Commission identified a number of connected issues and potential amendments, e.g.

- Extension of the scope of the NIS Directive: several additional sectors and sub-sectors were listed as "essential" by Member States in implementing the directive;
- Clarifying, inter alia, the definition of "operators of essential services";
- Setting security targets and plans for each sector to establish a common baseline among the security requirements determined by each Member State, which currently vary widely from one MS to another;
- Issues of how to cope with the additional cost burden arising for operators with business in several Member States, who are treated differently by the regulations.

If a text is jointly agreed by the EU Council and Parliament in the next few months, the revised directive could potentially enter into force in approximately three years' time.

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## PASSENGER TRAFFIC

### A busy start to the year for the CIV Working Group

The 51st meeting of the CIV WG brought together over 30 participants: a record attendance which shows CIT member companies' interest in our association and its work.

#### Legal framework and EU initiatives

The Covid-19 pandemic has hit the rail sector very hard. This CIV WG meeting was an opportunity to take stock of the situation one year after the pandemic began and review the action taken in response, in particular in the field of passenger transport.

Participants were also able to discuss ongoing legislative initiatives and the necessary improvements to the existing regulatory framework.

#### PRR revision: CIT initiates related workstreams

In the last issue of [CIT-Info](#), we informed you that the revision process for [Regulation \(EC\) 1371/2007 on the rights and obligations of rail passengers](#) (PRR) was nearing conclusion. The revised text has been adopted by the European Parliament. The PRR revised will now be formally adopted and signed by the European Parliament and the Council, and published in the Official Journal on 12 May 2021. It will enter into force on the 20th day after its publication, and be applicable 24 months later, i.e. as of 6 June 2023.

In this connection, CIT has already initiated work relating to PRR implementation. As such, a common claims form, as provided for by the revised PRR, has been developed in collaboration with the PRR Task Force convened by the CIT GS, which is made up of experts from CIT member companies. The common claims form has been endorsed by the CIV WG and presented to ERA.

Work to revise the other products began this spring and will conclude next year. The PRR Task Force meets monthly to discuss the various points in the CIT products which have been identified as needing revision, on the basis of its established work programme.

#### CER and UIC join with CIT to work on ticketing

Representatives of CER and UIC presented their work in the field of ticketing, which includes projects such as OSDM (Open Sales and Distribution Model), URT (Universal Rail Ticket) and e-TCD (e-Ticket control database), as well as the revision of [Regulation \(EU\) 454/2011](#) on the technical specification for interoperability relating to the subsystem 'telematics applications for passenger services' of the trans-European rail system (TAP TSI), which will definitely have an impact on CIT products.

The other topics discussed by the CIV WG's 51st meeting included East-West traffic and the use of the 2012 security background.

#### Other CIT products: definitely not overlooked!

The meeting was also an opportunity for the CIV WG to review the various CIT products and the modifications needed to these.

Concerning the AIV: the issue of including RPT (Rail Pass Tickets) and RIT tickets (Rail Inclusive Tours) in the scope of application sparked an interesting discussion which will likely be continued at the next CIV WG, at least as far as the RIT tickets are concerned, since the CIT GS has been tasked with conducting a preliminary assessment of the issue.

Concerning the other CIT products: updates to the appendices to the AJC were approved; references to the RIA (Agreement governing the exchange and use of trainsets in international traffic) were incorporated into the MCOOP; and finally, the nature of the GCC-CIV/PRR as an opt-in product was discussed.

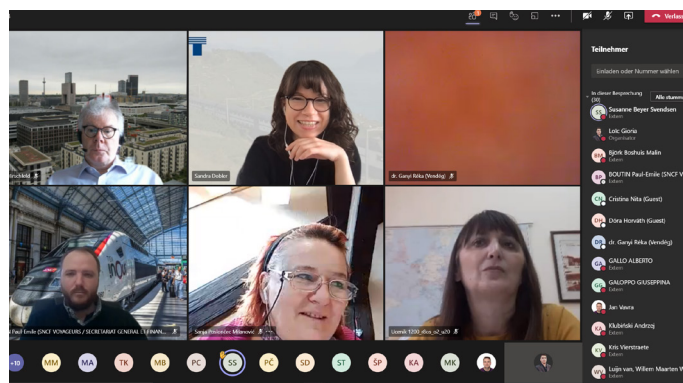
Some of these issues and discussions will likely be continued in the context of the work being done by the PRR task force.

#### Next meeting of the CIV Working Group

The CIV WG's next meeting will take place on 25-26 May 2021. The meeting will be held online.

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Original : FR



Attendance up for the 51st CIV WG

## Data protection: as crucial a topic as ever

*Data protection has been front and centre this March, with two CIT-organised events that together attracted over 100 participants.*

### Meeting of the Group of Data Protection Experts

The meeting of the Group of Data Protection Experts took place on 24 March 2021, and was attended by over 20 data protection experts from various CIT member companies.

The meeting was an opportunity for the experts to discuss issues relating, in particular, to the implementation of Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (GDPR). These included the independence and duties of data protection officers, the duty of information vis-à-vis data subjects, and compensation for non-financial damage sustained as a result of a breach of data protection rules. The experts also discussed the impact of the Schrems case on the transfer of data to third countries.

As well as GDPR, the experts discussed the revision of the Swiss [Federal Act on Data Protection](#) and the [EU's e-Privacy Regulation](#) and [Digital Services Act Package](#).

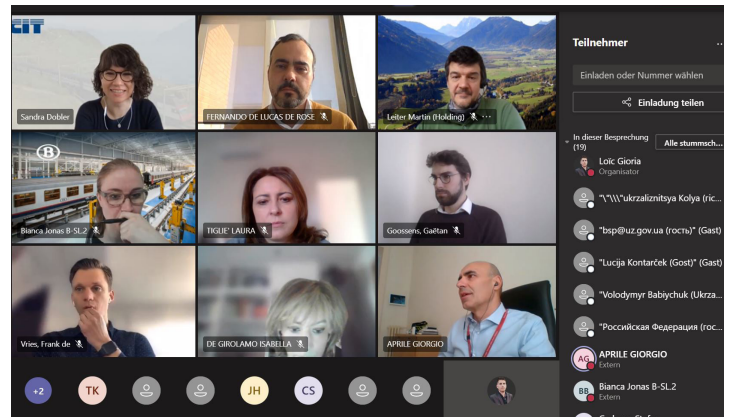
The meeting also addressed the issue of the application of the [PNR Directive](#) and [API Council Directive](#) to other modes of transport, including in connection with the pilot projects underway in Belgium.

The experts also examined the proposed modifications to the manual on data protection for transport companies (MDP). These mainly involve adding information in respect of the age of consent for children accessing information society services and the general conditions for imposing administrative fines. The experts also agreed to create a new section at the end of the MDP containing all the standard forms and checklists (rather than showing them in the section with comments). If approved by the CIV Committee, the changes will enter into force on 12 December 2021.

The CIT GS also intends to develop a code of practice to facilitate the transfer of personal data to third countries. A dedicated task force has been set up to this end. The CIT GS has asked the experts to send it any draft code of practice they are aware of.

The future organisation of the Group of Data Protection Experts was also on the agenda. The experts welcomed the proposal to convert the group of experts into a Data Protection Working Group. The proposal will be presented to the next meeting of the CIV Committee in September 2021. The question of the group's chairmanship was also raised (the group is currently without a chair). Any experts wishing to chair the group are requested to state their candidacy by 30 April 2021.

The next meeting of the Group of Data Protection Experts will take place on 24 March 2022.



Members from across Europe attended this second meeting of the Group of Experts

## Data Protection Conference

*The Data Protection Conference took place on 25 March 2021. With almost 90 registered participants, this was the highest attendance in the conference's history.*

The overarching theme for the conference was passenger transport from a data protection standpoint.

The topic was tackled from various angles:

Speakers started by addressing data protection in the context of the Covid-19 pandemic. These discussions focused on how to handle sensitive data such as health data, and provided new insights into the GDPR. Participants were also able to discuss issues such as vaccination certificates, passenger contact tracing, and tickets for the use of the named traveller only.

The second session dealt with passenger data and the use thereof. A case study showed that in some situations, railway undertakings had a legitimate interest in using passengers' data, e.g. as part of judicial proceedings. Onboard CCTV and the associated issues in international traffic were also mentioned.

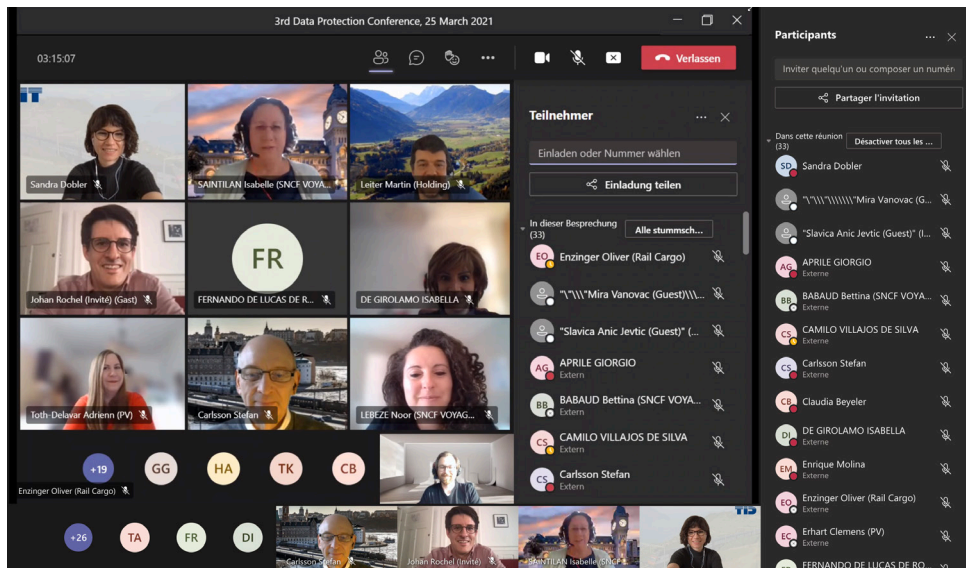
The second session concluded with a presentation on the transfer of data to third countries and the impact of the Schrems ruling in this context.

Following a well-earned lunch break, participants kicked off the afternoon session with a series of presentations on other data protection-related legislation, such as the e-Privacy Regulation, the Digital Services Act Package, and the PNR and API Directives. This provided a foretaste of some of the legislation to come.

The day concluded on a more digital note in the shape of topics such as Mobility-as-a-Service (MaaS) and the protection of digital integrity. The digital world throws up a host of questions relating to data protection, to which answers will need to be found in the coming years.

The next Data Protection Conference will take place on 23 March 2023.

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Record turnout for the third edition of the Conference

## Ticketing: Old ticket layouts being phased out

The CIT security backgrounds 1996 and 2006 which were used for security paper of tickets for decades are going to its deadline at the end of this year. It will be only the CIT 2012 security paper used for issuing paper tickets from 1 January 2022 onwards.

CIT, together with UIC, has been providing ticketing solutions for its members for the past number of decades. The central focus of CIT's Manual for International Rail Tickets (MIRT) is the ticket itself from a legal, functional and technical point of view. Technical requirements include standardisation of paper tickets using the CIT security backgrounds. The security background represents a so-called "Security in Paper" based on ticket paper with integration of specific security elements such as special colours, microtexts, stock control numbers, etc., as well as the use of special international ticket layouts.

Three co-existing standards are currently used in this context: the old CIT 1996 and 2006 security backgrounds and the new CIT 2012 security background. The CIT members decided two years ago at the CIV Committee that only the new CIT 2012 security paper would be used for issuing paper tickets from 1 January 2022 onwards. The new security paper is characterised by sophisticated security features offering a greater level of protection against forgery, copies and alterations.

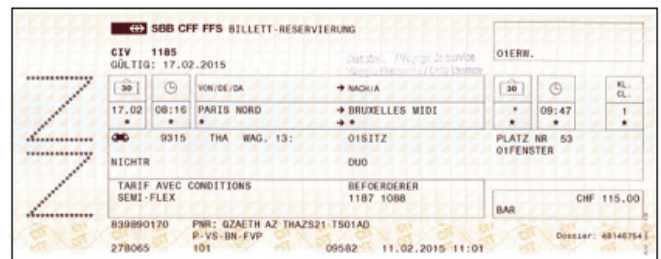
It was also decided that the old CIT security backgrounds 1996/2006 should be phased out in a seamless manner, respecting the commercial needs of CIT's members. Tickets with the CIT 1996/2006 security backgrounds issued during the presale period up to 31 December 2021 are to be recognised by all members until the end of their validity period and up to December 2022 at the latest. This interim rule and deadline for using old ticket layouts has been implemented in the MIRT and in UIC's International Railway Solutions (i.e. IRS 90918-8), thus ensuring consistency between CIT and UIC documents.

The objective of the CIT General Secretariat for 2021 is to support those members who have not yet implemented the CIT 2012 security background. Ordering the CIT security background and introducing security paper require time and planning, with many aspects to be considered, such as a potential tender process for printing companies, application of printing (source) data, production and delivery of printing data, production of sample tickets, evaluation of samples and distribution of new paper stock.

Any members who have not yet begun with the implementation of the CIT 2012 security background and who would like to continue to use paper tickets after 1 January 2022 are asked to contact the CIT General Secretariat ([info@cit-rail.org](mailto:info@cit-rail.org)), which will provide support and all of the necessary information and documents, including application forms, for the CIT 2012 security background.

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Original : EN



Example of an international ticket printed on ticket paper with the CIT security background 2012 and an UV-lamp for the control of the security elements in the paper.

## News from the meeting of the CIM Committee

The 24th meeting of the CIM Committee took place in late March by web conference, and was chaired by new Chair Mr Gilles Mugnier (SNCF). The committee, which is the chief CIT decision-making body for freight matters, took far-reaching decisions on the three major challenges facing cross-border rail freight – digitalisation, liberalisation, and multimodality.

### Digitalisation across the board

During the CIM Committee's work to include the rules governing the electronic formal report in the CIT Freight Manual (GTM-CIT), and in the broader context of the CIT GS's work to digitalise and further enhance the CIT products, it has become clear that to meet the requirements of an increasingly digital world, it will not be enough to confine this process to the electronic formal report. As such, it is now evident that an entire digital environment will need to be created to ensure that the CIT freight products can profitably be used by CIT members.

#### Step one: new electronic formal report (CIT20a)

As part of work to digitalise carriage documents, which includes the prospective implementation of the e-FTI Regulation under the European Commission's DTLF project, one priority action item for the CIT GS was to draft "functional and legal specifications for the electronic formal report" in order to enable the paperless documentation of damage and exchange of associated information. Therefore, as well as the CIM electronic consignment note - which has been effective since 1 January 2017 - a new digital basis for the electronic formal report (CIT20a) has also been developed, thus supporting the railways in the digitalisation of their claims handling processes.

The next step will be for the CIT GS to work with RailData to drive forward the technical implementation work through ORFEUS 1.5. This will see RailData include the "Attached Documents" function in the next version of ORFEUS message 1.5 so that the electronic formal report can be attached to the electronic CIM consignment note en route.

### Implementation of the new Incoterms® in the CIT freight products

The CIM Committee approved the amendments made to the CIT products in the light of the Incoterms® 2020. The Incoterms are particularly relevant for CIT's freight-related work, since the CIT products still refer to the Incoterms® 2010 and in some cases even the Incoterms® 2000. As such, they will need to be updated in short order using the Incoterms 2020 definitions.

At its November 2020 meeting, the CIM Working Group unanimously approved further amendments to the freight products GLV-CIM and GTM-CIT, having involved UIC Working Group RCF2 on the accounting-related aspects and UIC Leaflet 920-7. The supplements concern GTM-CIT Appendix 11, point 3.2 and GLV-CIM, point 5.2, and will be effective as of 1 July 2021. CIT members and customer organisations will be informed in detail in due course, via a circular to be sent by end of May.

### New CIT products in the field of multimodality

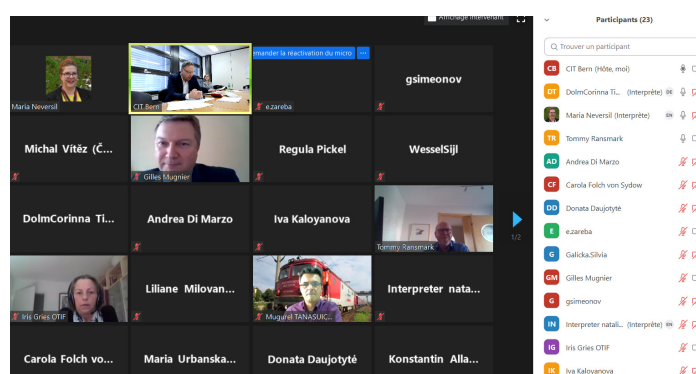
Inland waterways are becoming ever-more important for practical reasons: growing transport volumes and bottlenecks in other modes are creating the need to use inland navigation's spare capacity. In order to use this capacity multimodally, as early as 2016 the CIT Multimodality Committee set itself the target of examining the legal interfaces between the different bodies of law governing the carriage of freight by inland waterway and by rail.

On similar lines to the guide to CMR-COTIF/CIM-SMGS, the CIT GS has been working on a table railway law / inland waterway law since 2019 through the Multimodality Working Group and Multimodality Committee chaired by Ms Maria Kalimeri (ATTICA). The table compares the relevant sections of the law governing the carriage of goods by rail (COTIF/CIM) and by inland waterway (CMNI, CLNI I and II, and the Athens Convention + 2002 protocol for passengers and luggage). As well as the comparative table, the CIT GS has drafted a synoptic overview of the results of the comparison. Both documents will be published this year as a new CIT product in the field of Multimodality. The guide will be useful as a basis for a checklist for boilerplate contracts in rail-inland waterway traffic.

The 25th meeting of the CIM Committee will take place at CIT Headquarters in Bern on 24 March 2022.

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## New look and feel of supplements to CIT products

Since CIT members no longer systematically print off copies of CIT products for their various departments, it has recently been decided to simplify the look and feel of supplements to said products.

When CIT products are modified, the full text of the products thus amended is uploaded to the CIT website as a supplement to the product. CIT members are then informed of the supplements by a circular letter containing, in an attachment, a file with the title page of the supplement + the new/amended pages. The purpose of this file is to simplify matters for those CIT members who systematically print off the CIT products for use by the relevant departments.

The modified passages of a CIT product are highlighted in italics, and a footnote indicates the number and date of the supplement. On page 2 of each product (which contains a list of all the supplements released), an additional column identifies the points which have been modified, with a link to older versions of the product. Thus, users of CIT products can quickly locate which passages have been modified in a given supplement and even see which modifications have been made.

A recent consultation of CIT members showed that since they no longer systematically print off copies of CIT products for use by the relevant departments, the look and feel of supplements to said products can be simplified. This ties in with our continuous efforts to streamline work within the CIT General Secretariat: henceforth, whenever modifications are made to a CIT product and a supplement is issued, only the full text of the product as amended will be uploaded to the CIT website. The modified passage of the product will be highlighted (as is presently the case). CIT members will then be informed of the supplements by circular letter. We will no longer issue files containing the title page of the supplement and the replacement pages.

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Original : DE

## TAF revision is now reality

At the end of March 2021, Commission Implementing [Regulation \(EU\) 2021/541](#) amending Regulation (EU) 1305/2014 as regards the simplification and improvement of data calculation and exchange and the update of the Change Control Management process was published in the Official Journal of the EU<sup>1</sup>.

### Purpose of the revision

The main purpose of the now-concluded TAF TSI revision was to amend the text of both the regulation itself and the associated technical documents in order to reflect the ongoing digitalisation of rail freight and meet the challenging targets of the Green Deal to increase rail freight volumes by 30% by 2030. The technical specifications thus determined are intended to ensure an efficient exchange of information, enabling operational processes to be streamlined and made as cost-effective as possible. TAF TSI covers applications for rail freight but also extends to the interfaces with other transport modes. The focus thus goes beyond running trains in the narrow sense to situate railways' transport services at the core of a multimodal operation.

### Scope

Safety aspects are only considered to the extent that certain data elements are affected. The values have no impact on safe operations, though, and compliance with TAF TSI does not automatically equal compliance with safety requirements. TAF TSI also impacts the conditions of carriage applicable to the use of rail transport services. In this context, "User" means not only the infrastructure manager (IM) or RU, but also all the other service providers, e.g. wagon keepers, intermodal operators, and customers.

The amendments have been made in four main areas:

- Path information;
- Train running information at agreed reporting points, including at least departure, interchange/handover and arrival points of the contracted transport;
- Estimated Time of Arrival (ETA) to the final destination including yards and intermodal terminals;
- Service disruptions, which are to be notified to the customer in due time.

The sector is satisfied with and has taken note of the outcomes, highlighting in particular the level of data protection achieved for users – RUs and IMs.

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<sup>1</sup> OJEU L 108/19 of 29 March 2021.

## USE OF THE INFRASTRUCTURE

### CUI Committee agrees next steps on harmonisation of contracts for the use of infrastructure

This year, the CUI Committee has worked with RNE in a common endeavour to bring a harmonised contractual framework for the use of infrastructure one step closer. The committee's last meeting was chaired by Chair Adriaan Hagdorn (NS) and Vice-chair Alberto Gallo (Trenitalia).

#### European Standard Contract of Use for railway Infrastructure (E-SCU-I)

The meeting focused on the European Standard Contract of Use for railway Infrastructure currently being negotiated with RailNetEurope (representing the European infrastructure managers).

The remaining open points had been resolved by an RNE/CUI Committee Task Force, and the CUI Committee therefore approved the contract and associated implementation guide at the meeting. The RNE General Assembly will take place in mid-May, and will decide on the next steps on the infrastructure managers' side.

#### Practical questions from CIT members

Meetings of the CUI Committee regularly discuss the practical issues and questions that arise in members' companies. One topic that has been on the agenda for some time is the question of to what extent railway undertakings (RU) can be reimbursed their cancellation costs for domestic route sections forming part of a cross-border path if these are cancelled due to "force majeure" and the RU is obliged to delay the movement or abandon it altogether. The RU is often required to pay cancellation costs or penalties for subsequent route sections. Cancellation costs comprise the path reservation costs plus the costs of cancellation for any unused paths.

The topic has been on the agenda of PRIME (the liaison platform between infrastructure managers and the European Commission) for some time. In order to provide fresh impetus to the discussions, the CUI Committee has written a paper setting out the RUs' stance on this issue and presenting possible solutions. Once coordinated with CER, the paper is to be sent to PRIME.

#### Information on the TTR project

Members attending the meeting were also informed about the TTR project started by ForumTrainEurope in collaboration with RailNetEurope.

What "does TTR" mean? The acronym stands for "Redesign of the international Timetabling Process", and in simple terms is about modernising and harmonising the capacity allocation and path ordering process, thereby doing the same for the process of designing the timetable for rail traffic across Europe.

The legal challenges of the TTR project were presented to the CUI Committee, which was informed that discussions are ongoing on the extent to which it is compatible with the European legal framework or whether revision of Directive 2012/34/EU is needed. The CUI Committee stressed that any legal changes made necessary by the TTR project should be implemented at the «lowest legal level» (i.e. if possible, not via the main text of Directive 2012/34/EU but through implementing acts, delegated acts, etc.).

All CIT members are encouraged to monitor the progress of work on the project in order to ensure that their interests and company priorities are adequately catered for.

For further information, see the project website: <https://ttr.rne.eu/general/general-introduction/>

#### Use of service facilities

Some time ago, the CUI Committee decided to begin work to harmonise the rules governing the use of service facilities. As early as 2015, CIT already examined whether the CUI provisions (in particular those on liability) could be applied to service facilities. The conclusion reached at that time was that in general, the CUI liability provisions are mandatory for infrastructure managers' "fixed" service facilities. The CUI do not apply to RUs' service facilities or to pure services performed by IMs and RUs within service facilities.

It was decided that this position should be examined afresh in the light of various developments in EU law relating to service facilities. The CUI Committee has therefore analysed to what extent service facilities and the services provided in this context are covered by international statutes (CUI) and European law. The analysis will be sent to the OTIF Legal Department for their information.

The meeting concluded with the shared and forcefully expressed hope among CUI Committee members that they would soon be once more able to meet and discuss in person. To this end, it is intended that a workshop on infrastructure use be held in the latter part of this year.

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<sup>1</sup> Intergovernmental Organisation for International Carriage by Rail; [https://otif.org/de/?page\\_id=592](https://otif.org/de/?page_id=592).



## How are wagons in cross-border rail freight to be indicated in the wagon list

*Do the CIT products contain provisions describing how wagons are to be included and indicated in the wagon list? Are the wagons mentioned in the wagon list listed in the same order as in the train in reality?*

Article 7 § 1 lit. j) of the CIM Uniform Rules provides that, in wagonload traffic, the wagon number must mandatorily be indicated in the consignment note, while § 2 lit. f) provides that the agreed route is conditional. As such, there are no specific stipulations on this question in the CIT freight products, since the wagon list provided for in [GLV-CIM](#) section 10, whose detailed content is described in Appendix 5, is considered a component part of the CIM consignment note; to that extent, its task is “merely” to list the wagons belonging to the associated contract of carriage. Furthermore, the wagon list may cover either a block train or a wagon group which is just one part of a train from a production standpoint.

For production purposes, therefore, the details of the wagon list are communicated by the customer with the order:

- electronically or
- as a paper list.

Carriers have no influence over the system the customer uses to list or communicate this information (e.g. listing by terminal cut-off time, weight, etc.). Appendix 5, point 4.2 to GLV-CIM gives another important indication in this regard: *“For those consignments which pass over the customs territory of the European Union or the territory on which the common transit procedure is applied, separate wagon lists must be made out for community goods and non-community goods.”*

Alongside this there is also a production wagon list which is compiled by the RU that forms the train, the structure and content of which is determined by the infrastructure manager (IM) in most countries. This production wagon list documents the train formation and the order of the wagons therein, as well as other information relevant to the train run such as the brake position, braked weight, position of individual wagons, coupling, etc.

Furthermore, in the «CIM/SMGS consignment note» manual ([GLV-CIM/SMGS](#)), the corresponding document to the CIM/SMGS consignment note is named properly as a «wagon list» that forms an integral part of Appendices 7.1 and 7.2 to the GLV-CIM/SMGS.

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## CIT CALENDER

Date	Event	Location	CIT Contact
25-26 May	52nd CIV Working Group	online	SDO
1-2 Juni	CIV SMPS Working Group	Berne	EE
23-24 Juni	CIM Working Group	Berne	EE
1-2 July	Recht-Experten Group CIM/SMGS	Berne	EE
13 July	Experten Group Seals	Berne	DSC

## Agenda with CIT participation

Date	Event	Org.	Loc.	Contact
9 June	UPU-Rail Contact Committee	UPU	Berne	CB
16-17 June	CER High Level Freight Meeting	CER	Brussels	CB
17 June	CER Passenger Working Group	CER	Brussels	SDO
7 July	UIC Regional Assembly	UIC	tbd	CB

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