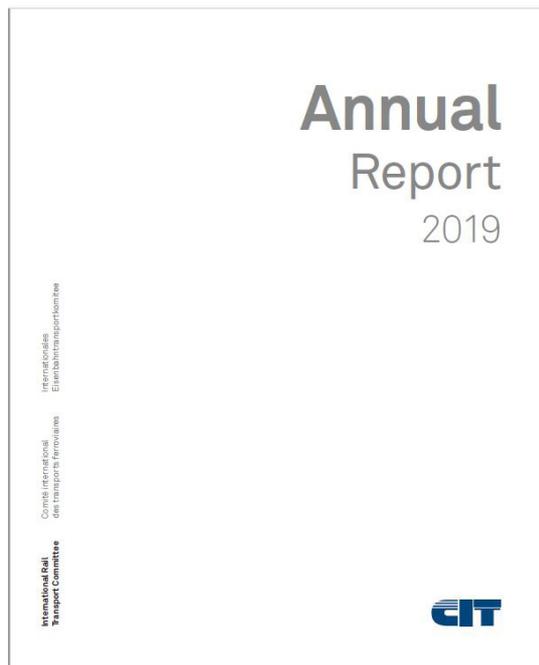




## CONTENT

The 2019 Annual Report offers an in-depth look at the latest events and activities at CIT.

In the next few days you will receive the 2019 annual report of CIT.



Dear readers,

### The '20s will be the new era of digitalisation



We have seen the benefits of digitalisation at the CIT during the coronavirus crisis. Despite the difficult circumstances associated with working from home, we have been able to continue working and have supported our members with a circular letter on transport law issues and the importance of force majeure, for instance. For the railways, digitalisation represents an opportunity to substantially improve the efficiency of their operations and the quality of services they provide. As regards the European «Green Deal» and the corresponding initiatives and projects at national level, a high degree of willingness on the part of the public sector to support the railways during the digitalisation process can be observed. The railways must seize this opportunity and they will most definitely do so! And you can be sure that the CIT will actively support its members in this process. During the «Bernertage 2020» conference, for example, the impact of digitalisation on contracts of carriage was discussed with over 100 participants. You will find a report of the event in this issue!

We wish you and your families all the best and good health in these difficult times!

### Best wishes from Bern

**Cesare Brand**  
CIT Secretary General

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## «Berner Tage» conference on international transport law

*Regulatory developments and the impact of digitalisation on contracts of carriage were the focus of discussions at the 10th Berner Tage conference, which was chaired by Gilles Mugnier (SNCF) and attended by over 100 representatives of the railways, the authorities, universities and the legal profession. The conference was held on 13 and 14 February 2020 in Bern.*

### Thursday morning

The conference began with presentations by a high-calibre panel of speakers on the latest developments in railway law from the perspective of the regulators and operators. The Secretary General of OTIF, Wolfgang Küpper, reported on the results of the 13th General Assembly of OTIF in 2018, on the work involved in digitising the consignment note and on the focus of the work being carried out by the newly established working group of legal experts. The participants were also given an insight into OTIF's work on technical interoperability and safety. Maurizio Castelletti (Head of Unit «Single European Rail Area») presented the European Commission's priorities. The focus of his presentation was on the current implementation status of the 4th Railway Package. A key concern of the EU Commission was the harmonisation of the law using the existing legal instruments across EU borders, he said. A significant part of his presentation was then devoted to the European «Green Deal», which is seen as a unique opportunity for the further development of the railways. The «Green Deal», and in particular its implementation in the railway sector, was also the focus of the presentation by Libor Lochman, Director of CER, who expressed very clearly what is expected from the point of view of the railways – namely an action plan for rail freight transport, improved cross-border interoperability, an increase in rail-road connectivity, the internalisation of external costs,

an increase in subsidies for electrification projects, digitalisation and noise reduction, an improvement in the framework conditions for private investment in the railway sector, in addition to robust financing for research and innovation.

Annika Kroon (Deputy Head of Unit DG Move) offered an insight into the EU's digitalisation projects, in particular the Digital Transport & Logistics Forum (DTLF) project and the work on the new regulation on the digitisation of transport documents (eFTI). This is important work covering the sharing of data between the railways and the authorities in a digital format. Finally, Luca Mariorenzi (FS Technology), in his capacity as Chairman of the UIC's Passenger Technical Group, gave a presentation on the UIC's numerous activities, projects and initiatives in the field of digital railway operations, rolling stock, maintenance and safety.



Thursday morning

### Thursday afternoon

The freight traffic session dealt with the possibilities that have now been made available with new technologies such as «Blockchain» or «Smart Contract» (Vitus Ammann, SBB) and the legal challenges ahead in digital logistics (Prof. Dr. Andreas Furrer, University of Lucerne). Dr. Erik Evtimov (Deputy Secretary General of the CIT) provided an insight into the work being done by the CIT in the digitisation of transport documents. Prof. Dr. Rainer Freise (Goethe University, Frankfurt am Main) described the most recent court decisions relating to the laws governing the carriage of freight by rail and the use of wagons. And finally, Lothar Schneemann (DB AG) presented details of specific digitalisation projects that are currently underway and the challenges of implementing digitalisation projects in practice. The panel of speakers was chaired by Jean-Luc Dufournaud (SNCF, Chairman of the CIM Committee of the CIT).

In the passenger transport session, the focus was on the digitisation of tickets. Luca Mariorenzi (FS Technology) reported on the latest developments in e-ticketing, Oliver Hirschfeld (DB AG and President of the CIT CIV working group) analysed the legal challenges of so-called «door-to-door» solutions. Jan Svensson (Passenger Traffic Expert of the CIT) provided details of the CIT's current work in the field of digitalisation. From a different perspective, Frauke Quik and Willem Maarten van Luijn (both from NS International) reported on the challenges and opportunities of cooperation between lawyers and IT experts. Finally, Isabelle Saintilan (SNCF, Vice-President of the CIV Committee) spoke about the latest developments in the revision of the Passenger Rights Regulation (PRR). This panel was chaired by Enrico Trapazzo (FS, President of the CIV Committee of CIT).

### Friday morning

The last part of the Berner Tage conference began with a fascinating analysis by Prof. Dr. Christoph Müller (University of Neuchâtel) on the application of existing contract law, in particular for «smart contracts». This was followed by Jonna Pöllänen of Maas Global, who presented «whim», a fully integrated multi-modal ticketing application, which has already been successfully implemented in a number of cities (Helsinki, Birmingham, Antwerp and Vienna). Sandra Dobler (Senior Legal Adviser of CIT) then reminded the participants that digitalisation goes hand in hand with data protection and presented the CIT's work and products in this field. The event concluded with a presentation by Nora Teuwsen (Partner at Bär&Karrer). She pointed out that digitalisation and innovation can only take place in an appropriate cultural environment. Organisational structures and corporate cultures must be designed in such a way that innovation, and thus digitalisation, can actually take place.

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Original : DE



Thursday afternoon



Friday morning



## Revision: priority for the work of the CIV Working Group in 2020

For the CIV Working Group, which met for the 48th time on 11-12 February 2020 in Bern, 2020 will focus on revision work.

### Revision of the PRR and its impact on CIT products

The CIV Working Group (CIV WG) began its meeting by discussing the latest developments regarding the revision of EC Regulation 1371/2007 and in particular the general approach published by the Council of the European Union in December 2019.

The revision of the PRR will also have an impact on CIT products, which is why the CIV WG has already begun discussions on its possible implications, particularly regarding the Agreement concerning the Relationships between Transport Undertakings in respect of International Passenger Traffic by Rail (AIV). However, work on revising the agreement can only begin when the final version of the PRR is known.

### Ticketing issues

The CIV WG is working on ticketing issues. It intends to make various changes to the Manual for International Rail Tickets (MIRT).

In addition to editorial changes, the SG CIT has also decided to include a number of clarifications in the MIRT requested by its members. The introduction of more specific transitional rules concerning the use of the 1996/2006 guarantee fund for domestic tickets was also discussed, bearing in mind that these guarantee funds can no longer be used to issue international tickets after 31 December 2021.

### CIV Working Group and data protection

The CIT GS has now moved on to the second phase of development of its Manual on Data Protection for Transport Undertakings (MDP). It is currently in the process of drafting the second part of the MDP articles discussed and the methodologies.

It has discussed the progress of the work with the CIV WG. However, commencing this year, technical issues relating to data protection will in future be dealt with by the Group of Data Protection Experts.

It will now take place on 17 and 18 June 2020 as a web conference.

### Multimodality and collaboration with the UIC and IATA

After having completed work on its air/rail cooperation models in 2019, the SG CIT has been holding talks with IATA since the end of 2019. These discussions also include UIC's work in this area.

The aim is to develop a global solution taking into account the legal, technical and commercial aspects of air/rail collaboration.

The discussions and work will continue in 2020, which is the reason why the SG CIT will keep the CIV WG updated on whatever progress is made.

### Next meeting on passenger transport

The next meeting on passenger transport will be held on 12-13 May 2020. The meeting will be held on the same days by video conference.

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Original : FR



Forward-looking discussions



## Digital versions and forthcoming amendments to freight documentation

The General Secretariat of the CIT (CIT GS) will continue to move ahead with the updating and reissuing of freight documentation in electronic format in 2020. In this article you will find information on the work that has already been completed and the forthcoming amendments. Due to the Covid-19 (coronavirus) pandemic, the schedule has had to be modified. The implementation of the amendments has been postponed for six months and will now take place on 1 January 2021.

### Successful completion of new digital versions of freight documentation

Following the reissue of the four CIT manuals relating to freight traffic and the movement of empty wagons ([GLV-CIM](#), [GTM-CIT](#), [GLW-CUV](#) und [GTW-CUV](#)) in digital form on 1 January 2017 (see Circular letter 25/2016 of 1 December 2016), new digital versions of the following four freight documents were then published on 1 January 2019: [GLV-CIM/SMGS](#), [GR-CIM/SMGS](#), [GTC CIM](#) und [GTC EurAsia](#) (see Circular letter 23/2018 of 9 November 2018). On 1 July 2019, the CIT GS published new editions of a number of additional CIT products: [Customer Agreement Checklist](#), [Claims Handling Agreement Checklist](#), [GTC joint contract](#), [Boilerplate for sub-contracting CT](#), [Boilerplate Rail-Sea Traffic](#) and [AIM](#).

With the publication of the [Checkliste Checklist for a framework contract to be used in international rail-road freight transport on 1 January 2020](#) the reissue of CIT products in digital form has now been completed. With the launch of the new website, which is scheduled to take place in the coming weeks, the products will be even more user-friendly for CIT members

### Revision of Chapter 6 AIM

At the meeting of the UIC's RCF2 Working Group (UIC freight accounting group responsible for rules governing financial relations between companies, including claims handling procedures) in May 2019, a number of questions arose that still needed clarification relating to the revision of UIC leaflet 304 (which is now to be converted into IRSe30304) on the processing and settlement of charges for misrouting by the performing carrier in accordance with Chapter 6 AIM.

Chapter 6 AIM currently specifies in detail the processes and allocation of charges for misrouting between the carriers involved when using the CIM consignment note. Since AIM is chiefly applicable to successive carriers only, consideration was given to how these provisions could be revised with regard to settlement based on the «purchase/sale» model and subsequently to the performing carriers involved. In addition, when revising the proposed amendment, the CIM WG was of the opinion that the provisions contained in Chapter 6 AIM should be drafted in such a way that would make it quite clear that if it has been contractually agreed that AIM is to be applied to sub-contracted carriage – i.e. beyond the normal case of applying AIM to successive carriers – then AIM shall also apply to the performing carrier.

### Amendments to Appendix 2 GLV-CIM

In its letter dated June 2019, PKP Cargo had submitted a proposal to CIT GS for changes to be made to the wording of box 21 in the CIM consignment note as specified in Appendix 2 to the GLV-CIM.

According to the proposal, if NHM code 990200 or 994100 has been entered in box 24 of the CIM consignment note, then the list of goods attached to the consignment note is to be complied with. This proposal is considered important in view of the entry into force of [EU Directive 2014/40/EU for tobacco products](#). Article 15(5) of the Directive provides for a traceability system for tobacco products (known as the Track & Trace system), which requires that all economic operators in the supply chain involved in the trade of tobacco products – and subsequently transport companies such as rail carriers – record the entry of all unit packets into their possession, as well as all intermediate movements and the final exit of the unit packets from their possession. To be able to comply with these reporting obligations, carriers would need to know that tobacco products are carried in a specific transport unit (wagon or container). This would not be possible, however, if the consignment note only included the NHM code 990200 (groupage freight) or 994100 (containers, large, loaded).

The CIM WG dealt with PKP Cargo's proposal in 2019 and, after weighing up the need to keep the number of amendments to the CIM Consignment Note Manual (GLV-CIM) as low as possible against the importance of the proposal submitted, came to the conclusion that, initially, an amendment to footnote 15 to box 24 in Appendix 2 of the GLV-CIM should be made by deleting the note in brackets «Operator in combined transport» and modifying the reference in the footnote so that it not only applied to the completion of the necessary customs declarations by the consignor, but also to all legally binding provisions. This would also ensure, for example, that the consignor complied with the necessary requirements of the EU Directive on tobacco products.

### Further activities

In 2020, the CIT GS will continue to support its members in the practical application of the electronic CIM consignment note as well as in the use of the electronic CIM/SMGS consignment note - in particular by organising a seminar on the subject in cooperation with the OSJD. In addition, the CIT GS will continuously update and amend the CIT standards for the electronic consignment note in order to meet the requirements of the Union Customs Code. The CIT GS will also be moving ahead with the introduction of the electronic formal damage report (CIT20a) and will continue to participate in the work being carried out by the European Commission for the eFTI Regulation and the DTLF project, and will be supporting the CER in the process.

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## Standardising contracts of use of infrastructure

The CIT is committed to greater harmonisation in the area of infrastructure use. The first phase was the implementation of the [E-GTC-I](#), the «European General Terms and Conditions of Use of Railway Infrastructure», which had been developed jointly with RailNetEurope. The aim of the second phase is to standardise infrastructure access contracts. The current diversity and complexity of the contracts between the various infrastructure managers result in barely justifiable administrative costs.

### Analysis of the situation in different countries

The CIT's CUI Committee has analysed several contracts of use of infrastructure in Europe and found that the contracts vary considerably in terms of the provisions. Why so many differences? How can this be justified? Is it not possible to use one and the same contract, given that we are always faced with the same situation and similar contractual relationships? This divergence is due in part to the fact that the time at which a contract of use of infrastructure is concluded ranges from a very early point in time to a very late point in time - just before the train actually runs on the allocated train path.

For railway undertakings operating internationally and thus on several different train paths, this level of complexity means that administrative costs arise, not only when the contract is concluded, but also and primarily when there are problems in the relationship with the infrastructure managers. Because if the contracts are designed very differently, each of them will have to be re-examined. Some infrastructure managers make the contracts available in English in addition to their national language, but there is no obligation to do so, with the result that many contracts are not available in English, the language most people understand.

### Reducing the level of complexity

RailNetEurope (RNE) had already tried to standardise this type of contract in 2004, but even after a large number of new regulations (primarily directives and regulations at European level, this contract is still in need of revision.

For this reason, the CIT drafted a contract with the CUI Committee that is as short as possible and includes only those provisions the RUs consider to be absolutely necessary. This is a vision that the CIT communicated to RNE some time ago, highlighting the benefits of standardising the relationship between infrastructure managers and railway undertakings: balanced, non-discriminatory, flexible and cost-effective documents.

The infrastructure managers have also initiated projects themselves: the legal experts of the infrastructure managers on Rail Freight Corridor 3 (ScanMed) have been concentrating for quite some time now on a pilot project in which the common contractual denominators on the corridor are to be developed. In addition to that, the RNE General Assembly has approved a new project designed to harmonise the contractual framework for international rail freight. Among other things, this project also aims to come up with a coherent structure for the contract of use of infrastructure in the sector.

### First joint steps initiated with RNE

In February of this year, a meeting between representatives of RNE and representatives of the CIT took place in Bern. The meeting was used to discuss the first steps in the development of a coordinated structure in the sector for the contract of use of infrastructure. A variety of different concepts for developing such a contract were also discussed and initial queries about the CIT draft contract clarified.

Some of the comments from RNE will be discussed by the CUI Committee on 14 May 2020 and the CIT will include a report on the meeting in the next issue of CIT Info.

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marshalling yard Lausanne-Denges



## What is the limitation of liability for the loss of a wagon in accordance with the GCU<sup>1</sup>?

Can the liability for the loss of a wagon be limited to the repair costs in accordance with Article 19 GCU?

Article 19 GCU initially regulates the reimbursement of repair costs for damage to the wagon, unlike Article 23 GCU, which regulates the amount of compensation for damage to the wagon. What kind of relationship exists between the two articles in the GCU? Are they applied alternatively, or cumulatively in the event of the loss of the wagon so that the wagon keeper is objectively entitled to receive full compensation?

Taking a legal approach to assessing the relevant Articles 19.2 and 23.2 GCU clearly shows the different scope of application within the GCU:

- Article 19.2 GCU has a «technical» function that also includes financial compensation for repairing and rectifying the damage to the wagon.
- However, the amount of compensation according to Article 23.2 GCU is directly related to the liability as specified in Article 22 GCU and therefore has a fundamental link to the principle of liability for presumed fault of the user RU in accordance with Article 22 GCU. Accordingly, the liability for fault has no limit in contrast to the causal liability in accordance with Article 23 CIM, but provides for full compensation limited to the usual value of the wagon, which is attained in the event of loss. This important limitation is postulated in the last sentence of Article 23.2 GCU and is also regarded as a legal limitation or legal bar to claims for speculative compensation for damage to the wagon in the event that the costs of loss of use in accordance with Article 13.3 GCU are added to the repair costs in accordance with Article 19.2 GCU.

The last sentence of Article 23.2 GCU, that «*The total amount of compensation (for loss of use and for reprofiling wheelsets) may not exceed the amount that would be payable for loss of the wagon.*» provides the RUs as users of wagons with legal protection against claims by the wagon keeper down to the loss of the wagon.

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Original : DE

<sup>1</sup> General Contract of Use for Wagons, available for download at:

[https://www.gcubureau.org/documents/10184/86782/20200101\\_GCU\\_DE\\_full\\_version.pdf/acea1f2b-aecf-4d93-98a6-b9a556c4a246](https://www.gcubureau.org/documents/10184/86782/20200101_GCU_DE_full_version.pdf/acea1f2b-aecf-4d93-98a6-b9a556c4a246).

## Workshop for CIT members

The General Secretariat of CIT (SG CIT) started the year with an in-house workshop for Croatian Railways. This was an opportunity for the SG CIT, among other things, to present its activities, but also to discuss various issues with the members of HZPP staff responsible for international law and after-sales issues.

### A variety of topics on the agenda for this workshop

HZPP had expressed the wish to cover as wide a range of topics as possible for this in-house workshop. SG CIT agreed to this request by addressing a variety of different topics, such as the legal framework on passengers' rights, various recent judgements, the handling of complaints and customer service, data protection, infrastructure liability and ticketing.

### Very constructive talks

The way these different topics were dealt with provided the opportunity for very constructive talks between the CIT SG and the participants. Several issues were discussed, particularly in relation to the transport of passengers and animals, with the revision of the regulations on passenger rights also accounting for part of the discussion time.

This enabled specific problems to be highlighted and resolved during the discussions, allowing the SG CIT to gain a better understanding of current practices at HZPP.

### Interested in a tailor-made workshop for your company?

SG CIT has organised tailor-made workshops for its members that meet the specific needs of each company.

Any company interested in such a workshop is invited to contact SG CIT.

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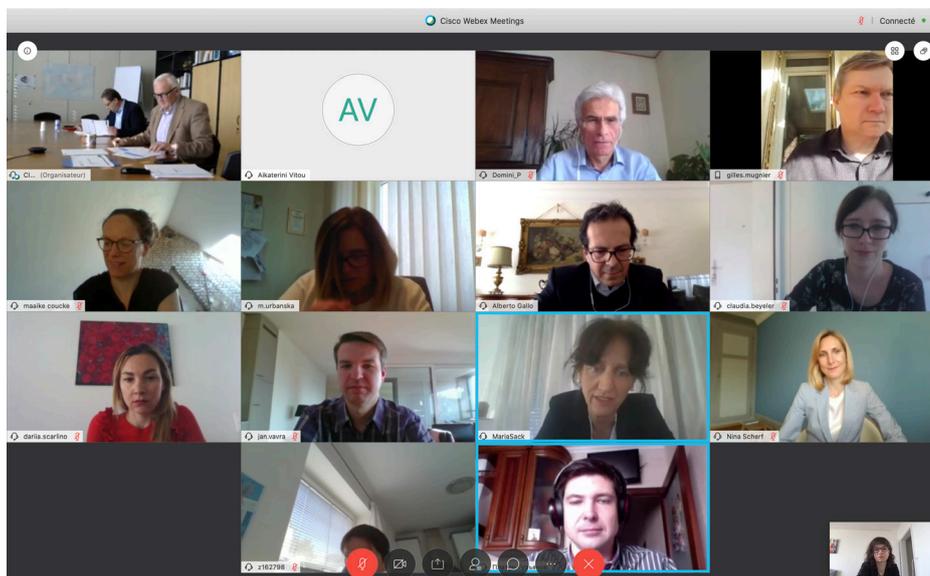
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Very pleasant talks with Croatian Railways

## Committee CIT

In these difficult times, CIT is adapting to the circumstances and continuing to work for you. The CIT Committee met on 23 April 2020 by videoconference.





## CIT CALENDER

Date	Event	Location	CIT Contact
12-13 May	49th CIV Working Group	* video conf.	SDO
14 May	29 CUI Committee	* video conf.	NS
17-18 June	Data Protection Experts Group	Warsaw	SDO
24-25 June	WG CIM	* video conf.	EE
15-16 July	CIM/SMGS Expert Group	* video conf.	DSC
9-10 September	CIM/SMGS Steering Group	Bern	DSC
17 September	Executive Committee 2/2020	Warsaw	CB
(tbd) September	Claims Department Conference	Rome	SDO
(tbd) September	CIV Committee	Rome	SDO
(tbd) October	CUI Committee	Bern	NS
17-18 November	50th CIV Working Group	Bern	SDO
19 November	CIT General Assembly	Bern	CB
25-26 November	CIM WG	Bern	EE

## Agenda with CIT participation

Date	Event	Org.	Loc.	Contact
04-07 May	DTLF SG1 / SG2	DTLF	* videoconf.	EE
26 May	UIC SG Wagon users	UIC	* videoconf.	NS
26 May	UIC Door-to-Door Group	UIC	* videoconf.	SDO
27-28 May	UIC Air-Rail Group	UIC	* videoconf.	SDO
10 June	DTLF Plenary	DTLF	* videoconf.	EE
23 June	CER Passenger Working Group	CER	* videoconf.	SDO
15 September	UIC Door-to-Door Group	UIC	Brussels	SDO
16-17 September	UIC Air-Rail Group	UIC	Brussels	SDO
17 September	CER Passenger Working Group	CER	Brussels	SDO
18 September	CER Customer Liaison Group	CER	Brussels	SDO
21 September	CER Management Committee & GA	CER	Berlin	CB
02 October	CER High Level Passenger Meeting	CER	Budapest	CB
15 October	UIC Air-Rail Group	UIC	Paris	SDO
25 November	UIC Passenger Services Group	UIC	Luxembourg	SDO

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