



CONTENT

CIT General Assembly

We take pleasure in inviting our members to the General Assembly of the CIT, which will take place on Thursday, 19 November 2020 in Bern at the CIT headquarters (Weltpoststrasse 20, Saal A, on the first floor) and by video with Zoom. The official part of the meeting will begin at 9 am and will end at 12:15 am at the latest.

We look forward to seeing you again on this occasion in person or by video.



- 2 CIV Committee
- 3 CIT/UIC Passenger Claims Department's Conference
- 4 CIM/SMGS Meetings
- 5 Legal dispute about framework agreements concluded between RUs and IMs
- 7 Law and practice :Legal consequences in case of circumstances preventing delivery?
- 8 CIT ITSELF
- 9 CIT Calendar



EDITORIAL

Dear readers,

COVID-19 is dictating the work being done by the CIT



The year 2020 will be remembered by us all as the year of the pandemic. The CIT started the year by hosting the «Bernern Tage» conference in February with around one hundred participants from all over Europe. This was the last physical event we held. Then came «Corona»! Within two weeks, the CIT's entire meeting programme had to be changed. The team had to work from home for a total of 5 weeks. And since the month of May, we have only held "virtual" meetings.

The positive thing about the situation is that, due to the tremendous flexibility and motivation of our members and the CIT team, it has been possible to complete the 2020 work programme successfully with only a few exceptions. Handling virtual conferencing has now become second nature, but we have also realised that virtual meetings cannot replace in-person meetings. New ideas and compromises, in addition to trust and confidence, only really come about on an informal basis when people meet face to face, not digitally...

Best wishes from Bern and looking forward to seeing you again in person very soon

Cesare Brand
CIT Secretary General



PASSENGER TRAFFIC

Lots of plans in the pipeline for the CIV Committee

With 21 members and 2 observers, the CIV Committee has determined the way for further CIT work on passenger traffic.

Some changes to claims handling

The CIV Committee principally made changes to the wording of the Agreement concerning the Relationships between Transport Undertakings in respect of International Passenger Traffic by Rail (AIV).

It noted the further work required on the AIV, particularly its scope concerning Interrail/Eurail tickets and RIT (Rail Inclusive Tours) tickets. The revision of Regulation EC 1371/2007 (PRR) will also play a significant role in this work.

The CIV Committee also adopted the guidelines developed by the CIT to help employees of undertakings applying the Agreement concerning Journey Continuation in respect of International Passenger Traffic by Rail (AJC). It also asked the CIT General Secretariat to organise a workshop on the AJC for the railway undertakings next year.

Changes to ticketing too

Different amendments were made to the Manual for International Rail Tickets (MIRT). These concerned the validity period of the CIT's old 1996/2006 security background, some clarifications as to the use of the security background, and modifications related to the adoption of the new UIC IRS 90918-8 leaflet.

Chapter 12 of the MIRT on the checking of tickets has been completely re-written to take into account new digital methods.

Data protection remains a priority for CIV activities

The Manual on Data Protection for Transport Undertakings (MDP) continues to be expanded. The CIV Committee adopted the changes made to it by the CIV Working Group and the Group of Data Protection Experts, notably concerning data protection impact assessments.

The CIV Committee noted the plans that will be developed in 2021 and asked the CIV General Secretariat to organise a data protection conference in 2021 with the theme «Transport of passengers from a data protection perspective».

It also elected Ms Gonnie Kruize (NS) as head of the Group of Data Protection Experts for a three-year term, renewable once.

Entry into force of amendments

The different amendments adopted by the CIV Committee will enter into force on 13 December 2020.

They will be available on the CIT website one month before their entry into force by clicking the following link to this secure page: <https://cit-rail.org/en/passenger-traffic/products>.

Change in CIV Committee chair

With the term of current CIV Committee chair, Mr. Enrico Trapazzo (FS), coming to an end, a new team consisting of Ms Isabelle Saintilan (SNCF) and Mr. Alberto Gallo (Trenitalia) will chair the CIV Committee from 2021. They will be elected at the next meeting of the General Assembly, this coming November.

The CIT General Secretariat would like to warmly thank Mr. Trapazzo for the quality of his work and the support that he has provided to the CIT over the years.

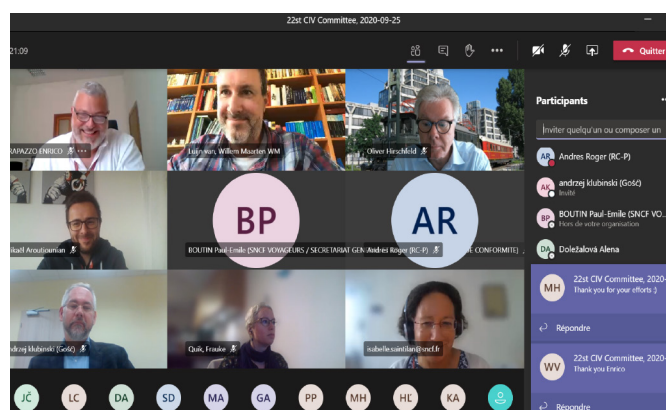
Forthcoming meetings on passenger traffic

The next meeting on passenger traffic, the CIV Working Group, will be held online on 17-18 November 2020, before the CIT General Assembly, which will take place on 19 November 2020.

The CIV Committee will meet again on 23 September 2021, with the venue still to be determined.

[sandra.dobler\(at\)cit-rail.org](mailto:sandra.dobler(at)cit-rail.org)

Original : FR



Excellent turnout for the 22nd meeting of the CIV Committee

CIT/UIC Passenger Claims Department's Conference

Assistance to passengers and influence of COVID-19 on passenger transportation from the legal and practical point of view were some of the highlights of this year's Passenger Claims Department's Conference.

One of the best attendances for the Claims Conference

More than 80 participants from CIT and UIC members participated in the conference this year. The conference was opened by Marc Guigon (UIC) with his contribution on the UIC COVID-19-Task Force and chaired by Enrico Trapazzo (FS).

Legal and practical aspects of assistance

During the morning session, participants were given an overview on assistance to passengers from the legal point of view with an analysis of article 18 of [Regulation \(EC\) 1371/2007](#) (PRR) by Oliver Hirschfeld (DB), followed by a contribution on the legal implication of COVID-19 on passenger transportation by Isabelle Saintilan (SNCF).

Furthermore, Massimiliano Astrologo (Trenitalia) made a presentation on providing assistance to passengers on board of trains and at stations. Michele Bondi (Trenitalia) explained the health, sanitary and security measures taken in Italy by Trenitalia under pandemic circumstances; he was followed by Giovanni Ferrari (Trenitalia), who showed the influence of COVID-19 in the after-sales process of Trenitalia.

A practical afternoon session

In the afternoon session, Isabelle Saintilan (SNCF) and Thomas Schönfisch (SBB) gave presentations on the assistance to passengers on board of trains and at stations from the practical point of view. Both railway undertakings are bringing different concepts of providing assistance to passengers: SNCF delivers assistance to passengers directly (drinks, meals, accommodations), while SBB has a system of vouchers in place. They concluded their presentation by providing information on the influence of COVID-19 on daily railway business.

Later, Sandra Dobler (CIT) and Jan Vavra (CIT) presented an overview of the CIT products, which are of interest for customer services, including the revised Manual on Data Protection for Transport Undertakings (MDP), amendments to the Agreement concerning the Relationships between Transport Undertakings in respect of International Passenger Traffic by Rail (AIV) and to the Manual for International Rail Tickets (MIRT) and other useful information coming from the CIT.

Fruitful workshops

The highlight of the conference were the workshops dealing this time specifically with the assistance for continuation of the journey due to missed connections and the offering of accommodation when the passenger has missed the last connection of the day.

The outcomes of those fruitful discussions will help the implementation of the PRR in the daily railway business.

The conference was closed by thanking the participants for their active participation and inviting everyone to next year's conference of passenger claims departments, which will be held on 22 September 2021, place of the event will be determinate later.

[jan.vavra\(at\)cit-rail.org](mailto:jan.vavra(at)cit-rail.org)

Original : EN



CIT/UIC Passenger Claims Department's Conference was held as on-line meeting



CIM/SMGS Meetings

Despite the COVID-19 pandemic, the work of the CIM/SMGS continues. The status of this work was a subject of discussion at the virtual meetings of the expert and steering group on 9-10 September.

CIM/SMGS electronic consignment note

The specifications for the CIM/SMGS electronic consignment note became effective on 1 July 2019. The technical specifications concerning the EDIFACT and XML aspects were prepared by the CIT/OSShD ad hoc technical group CIM/SMGS. The next challenge is to organise pilot runs using the CIM/SMGS electronic consignment note. To set things in motion, the GS CIT and the OSJD Committee plan to hold a joint seminar on the CIM/SMGS electronic consignment note in Riga in September 2021. When organising pilot runs with the CIM/SMGS electronic consignment note, one of the most important tasks will be to establish good cooperation and effective communication with the customs authorities. The GS CIT will make every effort to ensure that representatives of DG TAXUD and CER also attend this seminar.

The UPU's «Mail by Rail» project

The results of the «Legal Interoperability of CIM/SMGS» project are also important for the «Mail by Rail» project, which is being jointly managed by the UPU, OSJD, CCTT and CIT. The first regularly scheduled mail container trains between China and Europe began in April 2020.

The international organisations OSJD, OTIF, CCTT and CIT are active participants in the UPU's «Mail by Rail» project. There are still a number of outstanding issues (lack of standards for the organisation of international mail transit traffic, a lack of clarity with regard to the accompanying documents, restrictions on the transit of mail in some countries, etc.) which need to be resolved to ensure the trouble-free carriage of mail by rail. The UPU, along with the other parties concerned, will examine the possibility of using the CIM/SMGS consignment note for the carriage of mail by rail as well as a customs declaration. The mail carried by rail from the People's Republic of China to Europe offers tremendous development opportunities for members of the CIT and the OSJD.

Multimodal transport with the CIM/SMGS consignment note on the Baltic Sea

At the end of August, OTIF published information on the registration in the CIM list of maritime and inland waterway services of a new sea route between Sassnitz/Mukran in Germany and Ust-Luga in the Russian Federation. The registration of this new sea route is of great importance for the unrestricted use of the CIM/SMGS consignment note. Carriage in accordance with the COTIF/CIM on the Sassnitz/Mukran-Ust-Luga route has been possible since the end of September 2020.

The Baltijsk – Mukran route was registered in OTIF's CIM list of maritime and inland waterway services in 2019. The CIM/SMGS consignment note and other CIT documents (General Terms and Conditions and the rail-sea traffic boilerplate contract) may in principle be used by the carriers involved, i.e. shipping and railway undertakings.

The shipping undertakings Baltic Port Rail Mukran (BPRM) and Bremer Reederei (BREB GmbH), who are CIT members, are keen to use the CIM/SMGS consignment note for their rail freight services via the sea routes from China to Germany. The first service operated by BPRM left China in the autumn of 2019 and arrived at the Baltic Sea port of Mukran on the German island of Rügen on 12 November 2019.

[dariia.scarlino\(at\)cit-rail.org](mailto:dariia.scarlino(at)cit-rail.org)

Original : DE



Virtual meetings of the expert and steering group



A legal dispute about framework agreements concluded between RUs and IMs

Questions about framework agreements concluded between infrastructure managers (IMs) and applicants (i.e. railway undertakings, RUs) were repeatedly discussed by the CIT's CUI committee, which is responsible for these matters. It is difficult to identify a common legal approach to these specific issues in Europe, as only a few European IMs make use of framework agreements because they are not obliged to offer them¹.

A. Introduction

What is a framework agreement and what is its purpose?

According to Article 3 and clause 23 of [Directive 2012/34/EU](#), a «framework agreement» is a legally binding general agreement under public or private law setting out the rights and obligations of an applicant and the infrastructure manager in relation to the infrastructure capacity to be allocated and the charges to be levied over a period longer than one working timetable period.

Article 38.2 of Directive 2012/34/EU actually states the principle that train paths (i.e. the specific railway infrastructure capacity required for a train to run between two locations at a particular time) may only be allocated to an RU for one working timetable period. The reason for this is to prevent already established RUs from making it difficult or impossible for new market competitors to use train paths in the future. This means that the allocation of train paths for a new working timetable always begins with a blank sheet of paper, so to speak. However, this approach runs contrary to the legitimate interests of railway undertakings who, in order to make investments or offer certain services to their customers, require a degree of planning security beyond that of a single working timetable.

A framework agreement should strike a balance between these interests, firstly, by considering new competitors when train paths are being allocated for the next working timetable and, secondly, by giving the railway undertakings the opportunity to enter into an agreement that secures capacity (i.e. allows them to include part of the route of requested train paths in their planning for a specific period) for longer than one working timetable period.

Overview of the legal requirements for framework agreements

Article 42 of Directive 2012/34/EU contains requirements to be observed when concluding framework agreements. It states that a framework agreement may not specify a train path in detail and may not be drawn up in such a way as to preclude the use of the relevant infrastructure by other applicants. It must therefore also be possible to amend the terms of an agreement to enable better use to be made of the railway infrastructure.

Article 42 also states that agreements must meet the legitimate commercial needs of the applicant (the RU). Framework agreements do not normally last for more longer than five years. Periods longer than this may be justified in certain circumstances such as when, for example, an RU is able to prove the existence of specialised investments.

Penalties may be agreed between the parties in the event of modifications to or termination of the framework agreement. In 2016, on the basis of Article 42, the European Commission issued details of the procedure and the criteria for the use of framework agreements in the Implementing [Regulation 2016/545](#). The main purpose of the implementing regulation is to regulate the conditions for signing framework agreements as well as the procedures to be followed in the event of a conflict arising between applications for new framework agreements and existing framework agreements, or between train paths requested under a framework agreement and those requested by other RUs in the working timetable. The regulation also contains provisions for contractual penalties, when these have been agreed between the IM and the RU. The requirements imposed by the implementing regulation appear to have made it more onerous to use framework agreements, which is why they are being offered by fewer and fewer IMs.

B. Specific issues

The legal nature of framework agreements and their binding character

Given the need for framework agreements that reconcile the different interests outlined above while at the same time allowing for the possibility of amendment, it is not unreasonable to ask whether the framework agreements according to their legal nature have no more than a declaratory character, having been designed merely to encourage cooperation between IMs and RUs, or whether they are also legally binding.

The members of the CUI Committee who discussed this issue concluded that framework agreements should be considered inherently legally binding as soon as they have been signed. The idea behind framework agreements is to ensure that RUs obtain the capacity provided for in the agreement so that they can invest safely in rolling stock and conclude long-term agreements with their customers. At the same time, a binding framework agreement is also in the interest of the IMs, as it secures them a regular income. The penalties allowed for in a framework agreement are often reviewed in advance by the national regulatory bodies concerned. This procedure is consistent with the view that framework agreements are legally binding. It should be noted, however, that the Implementing Regulation 2016/545 allows the parties a great deal of flexibility in modifying the content of a framework agreement.

¹The information contained in this article has been condensed based on feedback from the CUI Committee on May 2020. The explanations have been shortened and to some degree also reflect the personal views of the GS CIT.

The appropriate level of penalties that can be agreed in a framework agreement

Article 42 of Directive 2012/34/EU states that the parties may agree on penalties that will be applied if the framework agreement is changed or terminated. However, it does not provide an answer to the question of how high these penalties should be if an RU fails to take up the agreed capacity, that is, leaves train path days unused. By the same token, the question arises as to what penalties are possible in practice if the IM fails to make available the capacity previously agreed in a framework agreement.

European law provides some clarity but is not specific about how much the penalties can be in practice. Article 13.2 (Penalties) of the implementing regulation states that the framework agreement shall not set penalties at a level in excess of the costs, direct losses and expenses (including loss of revenue) reasonably incurred or which can reasonably be expected to be incurred by the party indemnified as a consequence of the modification or termination of the agreement (...). In addition, Article 13.3(c) states that, if the infrastructure manager has been able to reallocate train paths and framework capacity, he may not request the payment of penalties in excess of the administrative costs for modifying or terminating the framework agreement.

Recitals 16 and 17 of the implementing regulation also mention that penalties set at a reasonable level should encourage applicants to make realistic applications for framework agreements and to report any changes in capacity required under a framework contract, and also that any contractual penalties must be non-discriminatory. Penalties should be proportionate to the objectives being pursued. They should also be paid, with payment being enforced where necessary.

Although the CUI Committee would prefer the matter of permissible penalty levels to be standardised to some extent at national level, it has not been able to ascertain whether this is the case. Overall, the members of the CUI Committee agreed that penalties are only appropriate if they are limited to the total cost of the unused capacity/track days. There must be clear reciprocity of sanctions between the IM and the RU. In other words, both must be penalised in the event of «misconduct» (the RU does not call up the full capacity, the IM does not provide the agreed capacity), even if the penalties are different in each case.

The CUI Committee has prepared a legal analysis paper on the subject of «Framework Agreements» and made it available for download from the CIT website (in the protected area for CIT members). The paper provides further information on this topic.

[nina.scherf\(at\)cit-rail.org](mailto:nina.scherf(at)cit-rail.org)

Original : DE



<https://pixabay.com/>



Legal consequences in case of circumstances preventing delivery?

According to the legal definition in Article 23 § 1 CIM, an international contract of carriage of goods by rail is valid from the taking over of the goods until the time of delivery. But what are the legal consequences if the goods cannot be delivered?

This is a case of circumstances preventing delivery in accordance with Article 21 § 1 CIM, which specifies that «When circumstances prevent delivery, the carrier must without delay inform the consignor and ask him for instructions (...)». According to the provisions of Article 21 CIM, it is not necessary for the goods to have arrived at the delivery point. In this regard, Paragraph 11.2 of the [GTC-CIM](#) specifies that «Agreements made between the consignee and the carrier who delivers the goods under the contract of carriage shall determine delivery of the goods, the servicing of the terminal, of the unloading point, or of the private siding at the destination point. By default, delivery shall take place in accordance with the provisions in force at the delivery point.»

It is very important, therefore, that the carrier obtain instructions in good time from the consignor as to what further action is to be taken. The notification of circumstances preventing delivery and the consignor's instructions are described in detail in the CIT's CIM Consignment Note Manual (GLV-CIM) Appendix 9. The procedure has been further standardised with the [CIT9](#) uniform model document; for the purpose of the information exchange optimization CIT has created a pdf form application.

This means that, as far as the law is concerned, the carrier has acted in bona fide and is entitled to recover any costs he has incurred relating to the circumstances preventing delivery. This in turn is in accordance with Article 22 § 1 CIM, so that, particularly in the event that the consignor fails to give instructions or fails to give them in good time, the carrier is protected ex lege in accordance with Article 22 § 1 c) CIM (disregard of the circumstances preventing delivery by the consignor). In accordance with § 2, the bona fide carrier may unload the goods and then, in accordance with § 3, sell them. If the proceeds of sale are less than the costs, the consignor must pay the difference – cf. Article 22 § 4 CIM. The details of how the costs are charged are again described in detail for CIT members in the GTM-CIT [Working Sheet 08-03](#).

[erik.evtimov\(at\)cit-rail.org](mailto:erik.evtimov(at)cit-rail.org)

Original : DE



<https://www.automotivepurchasingandsupplychain.com/news/13971/15/Audi-uses-DB-Cargo-for-CO2-free-rail-transport-all-over-Germany>

Second Executive Meeting of 2020

The Executive Committee met by web conference on 17 September 2020 to prepare the upcoming General Assembly.

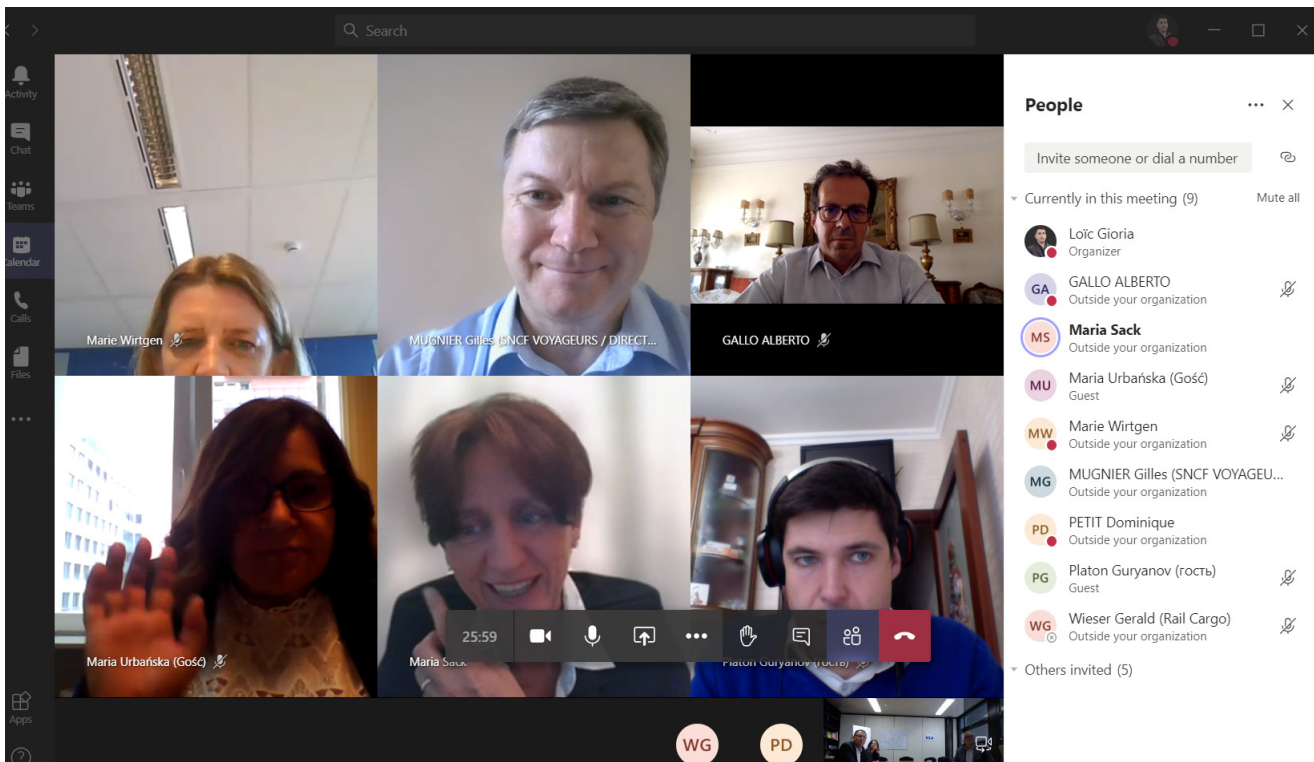
Under the leadership of Chairwoman Maria Sack (DB AG), the Executive Committee prepared the CIT General Assembly to be held on 19 November. Due to COVID-19, this year's GA will probably take place as a video conference (a first), or in the best-case scenario as a "hybrid" meeting.

The Executive Committee meeting primarily dealt with preparations for the election of six candidates at the General Assembly, including a vacant slot on the Executive Committee and the chairmanship of the Freight and Passenger Committees. The meeting also discussed the 2021 budget and a "COVID-19 rebate" whereby CIT members will receive financial relief during 2021 and 2022 in the shape of lower membership fees. The Executive Committee also discussed the programme of work for 2021, as well as a proposed amendment to the CIT Statutes to render the language gender-neutral.

Finally, the Executive Committee noted that, despite the pandemic, the bulk of the 2020 programme of work had been completed as scheduled.

[cesare.brand\(at\)cit-rail.org](mailto:cesare.brand(at)cit-rail.org)

Original : DE



First Executive Committee via web conference



CIT CALENDAR

Date	Event	Location	CIT Contact
17-18 November	50th CIV Working Group	*video	SDO
19 November	CIT General Assembly	*video/Bern	CB
20 November	Multimodality Committee	*video	NS
24 November	CIT Expert Group on Seals	*video	DSC
25 - 26 November	CIM Working Group	*video	EE

Agenda with CIT participation

Date	Event	Org.	Location	CIT Contact
2 November	OSDM-EC	UIC	Paris	CB
25 November	UIC Passenger Services Group	UIC	Luxembourg	SDO
1-2 December	IRFC	OLTIS	Prague	EE
8 December	CER Assistants	CER	Brussels	EE
15 December	UIC Regional Assembly	UIC	Paris	CB
16 December	UIC General Assembly	UIC	Paris	CB

Editorial office:
International Rail Transport Committee (CIT)
General Secretariat
Weltpoststrasse 20, CH-3015 Berne

Telefon +41 31 350 01 90
Fax +41 31 350 01 99
E-Mail [info\(at\)cit-rail.org](mailto:info(at)cit-rail.org)
Internet www.cit-rail.org