



Council of the  
European Union

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Eingelangt am 07/11/23

**Brussels, 7 November 2023  
(OR. en)**

**14672/23**

**TRANS 449**

## **LEGISLATIVE ACTS AND OTHER INSTRUMENTS**

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Subject: COUNCIL DECISION on the position to be taken on behalf of the  
European Union at the 5th session of the OTIF ad hoc Committee on Legal  
Affairs and International Cooperation

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**COUNCIL DECISION (EU) .../2023**

**of...**

**on the position to be taken on behalf of the European Union  
at the 5th session of the OTIF ad hoc Committee  
on Legal Affairs and International Cooperation**

**(Text with EEA relevance)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91,  
in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Union has acceded to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980, as amended by the Vilnius Protocol of 3 June 1999 (the ‘Convention’), in accordance with Council Decision 2013/103/EU<sup>1</sup> and with the Agreement between the European Union and the Intergovernmental Organisation for International Carriage by Rail (OTIF) on the Accession of the European Union to the Convention<sup>2</sup> (‘the Agreement on Accession to the Convention’).
- (2) Pursuant to Article 2 of its Rules of Procedure, the OTIF ad hoc Committee on Legal Affairs and International Cooperation (‘the Committee’) is mandated to prepare draft amendments or supplements to the Convention, provide legal advice on its own initiative or at the request of the organs referred to in Article 13 §§ 1 and 2 of the Convention or at the request of organs established by them, promote and facilitate the functioning and implementation of the Convention, monitor and assess legal instruments, and take decisions on cooperation with other international organisations and associations, including establishing and dissolving consultative contact groups with other international organisations and associations and monitoring the functioning of contact groups.
- (3) The Union participates in the Committee in accordance with the Convention, the Rules of Procedure of the Committee and the Agreement on Accession to the Convention.

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<sup>1</sup> Council Decision 2013/103/EU of 16 June 2011 on the signing and conclusion of the Agreement between the European Union and the Intergovernmental Organisation for International Carriage by Rail on the Accession of the European Union to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980, as amended by the Vilnius Protocol of 3 June 1999 (OJ L 51, 23.2.2013, p. 1).

<sup>2</sup> OJ L 51, 23.2.2013, p. 8.

- (4) At its 5th session, on 7-9 November 2023, the Committee is expected to decide upon an advisory legal opinion on the application to rail service facilities of Appendix E to the Convention; possible options to amend Appendix B to the Convention in order to facilitate the uptake of the electronic consignment note; certain aspects of the preparation of a long-term strategy for OTIF; possible options to amend the Convention with regard to the suspension and termination of the Convention or of membership of OTIF with regard to a particular OTIF member; the preparation of a recommendation on the use of electronic signatures in official communications between OTIF and its members; the development of a copyright policy and the preparation of guidelines on the protection of OTIF's name, abbreviation and logo; and the clarification of the term 'expert' for the purpose of stakeholder involvement in OTIF's work.
- (5) The Committee is expected to decide on an advisory legal opinion on the application to rail service facilities of the Uniform Rules concerning the Contract of Use of Infrastructure in International Rail Traffic (CUI) set out in Appendix E to the Convention. It is necessary to ensure a harmonised and complementary interpretation with regard to rail service facilities of those rules, on the one hand, and the legislation applied by OTIF members, on the other, in particular as far as the Union is concerned, Directive 2012/34/EU of the European Parliament and of the Council<sup>1</sup>.

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<sup>1</sup> Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012, p. 32).

- (6) The existing provisions of Appendix B to the Convention allow the use of the electronic consignment note based on the principle of functional equivalence with the paper version. In view of the continuing digitalisation of transport, it is necessary to review the appropriateness of the OTIF legal framework and to consider possible options to amend the Convention with a view to facilitating the uptake of the electronic consignment note, taking into account the rules adopted by the Union under Regulation (EU) 2020/1056 of the European Parliament and of the Council<sup>1</sup>.
- (7) As regards the strategic development of OTIF, it is important to ensure that further advice and guidance is provided to the Secretary General of OTIF on the elaboration of a long-term strategy for OTIF, which is to be presented for consideration and adoption to the General Assembly of OTIF at its next ordinary session.
- (8) Considering recent geopolitical tensions in the pan-European region, the Committee is expected to resume discussions on the suspension and termination of the Convention or of membership of OTIF with regard to a particular OTIF member. It is necessary to make sure that the rules of the Convention on its suspension or termination, or on the suspension or termination of membership of OTIF, including the limitation of some rights, are properly reviewed and to decide whether the Convention should be amended to better protect the integrity of OTIF and of the network of its members, as well as to better support the achievement of OTIF's aim to promote, improve and facilitate international traffic by rail in all respects.

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<sup>1</sup> Regulation (EU) 2020/1056 of the European Parliament and of the Council of 15 July 2020 on electronic freight transport information (OJ L 249, 31.7.2020, p. 33).

- (9) The development of electronic communications requires certain administrative updates and modernisation to ensure the safe and reliable use of electronic signatures in official communications between OTIF and its members. It is important to support the preparation of a recommendation in that regard, which takes into account the different level of experience of OTIF members and is in line with the rules laid down at Union level, in particular Regulation (EU) No 910/2014 of the European Parliament and of the Council<sup>1</sup>.
- (10) As regards the legal protection of OTIF's name, abbreviation, logo and intellectual property, the Committee may decide to develop an intellectual property document management policy for OTIF. Such a policy should be designed to facilitate the reuse of information and documents owned by OTIF in line with the rules set out in Directive (EU) 2019/1024 of the European Parliament and of the Council<sup>2</sup> and Commission Decision 2011/833/EU<sup>3</sup>.

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<sup>1</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

<sup>2</sup> Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (OJ L 172, 26.6.2019, p. 56).

<sup>3</sup> Commission Decision 2011/833/EU of 12 December 2011 on the reuse of Commission documents (OJ L 330, 14.12.2011, p. 39).

- (11) The Committee may decide to clarify the term ‘expert’ in the context of the Recommendation on involving stakeholders in OTIF’s work adopted by the Committee on 5 April 2022. It is necessary to ensure a harmonised interpretation of that term, given the importance of ensuring appropriate stakeholder involvement in the activities of the Committee.
- (12) It is appropriate to establish the position to be taken on the Union’s behalf at the 5th session of the Committee as the Union is a member of OTIF and the decisions taken by the Committee may lead to the adoption of acts which will be binding under international law and capable of decisively influencing the content of Union legislation, in particular Directive 2012/34/EU, Regulation (EU) No 910/2014 and Regulation (EU) 2020/1056.
- (13) The proposed decisions to be taken at the 5th session of the Committee are in line with the law and strategic objectives of the Union and should therefore be supported,

HAS ADOPTED THIS DECISION:

### *Article 1*

The position to be taken on the Union's behalf at the 5th session of the ad hoc Committee on Legal Affairs and International Cooperation of the Intergovernmental Organisation for International Carriage by Rail is set out in the Annex.

Minor changes to the position referred to in the first paragraph may be agreed by the representatives of the Union without a further decision of the Council.

### *Article 2*

This Decision shall enter into force on the day of its adoption.

Done at ...

*For the Council*

*The President*

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