

Annex II - Table comparing the contractual clauses in the EU Member States

	Documents	Possible negotiation	Basis of liability	Limitation of liability	Damage covered	Concomitant causes	Other actions	Notice of claim
BE Infrabel	Contract (model in the Network statement copied from CUI)	Partially on possible damage resulting for RU/IM from disruptions	<p>Liability of IM which caused damage during the use of infrastructure and having its origin in the infrastructure</p> <p>Liability of RU which caused damage during the use of the infrastructure by means of transport used or by the persons or goods carried.</p> <p>Relief: IM and RU can be relieved for - bodily loss (and IM also for damage resulting from CIV): . external circumstances despite the required care - to the extent of the victim's fault . third party's behaviour despite the required care - property loss (and IM also for damage resulting from CIV), to the extent of the victim's fault</p>	<p>- Nuclear accident caused by the operator of a nuclear installation - No liability < 2500 €</p>	<p>-bodily loss -damage to property -IM towards RU, pecuniary loss as resulting from damages paid under CIV and CIM)</p>	Liabilities to the extent of the attributable cause	Limited to the same extent as the contract	/
DE Deutsche Bahn Netz	Contract (General Terms and Conditions) included in the Network Statement	No	<p>Provided in statutory provisions (7.5.1.1. of the Network Statement) Strict liability for the integral damage</p>	No liability for damage to properties < 10.000 €	<p>- property damage if < 10.000€ - personal injury</p>	If causer of damage to third party unknown, Parties liable in equal proportions	/	/
DK Rail Net Denmark	No contract provided / Network Statement available but no liability provisions	No answer	Nothing in the NS / should be provided in the contract	Nothing in the NS / should be provided in the contract	Nothing in the NS / should be provided in the contract	/	/	/

	provided – states that the access agreement shall contain such liability provisions							
EL EDISY S.A.	No contract provided (probably due to the absence of competition) / NS is still being completed - no liability provisions provided – reference to the statutory provisions	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ES Adif	No contract provided / Network Statement available but no liability provisions provided – reference to the statutory provisions	N/A	Provided in statutory provisions	N/A	N/A	N/A	N/A	N/A
FR RFF	Contract (General Terms and Conditions)	No	1) liability of IM: - if default in the infrastructure - fault in the management of the infrastructure 2) liability of RU: - if people or goods transported is at the origin of the liability - equipment default - fault in the use of infrastructure Relief:	-no liability < 10.000 € (unless due to wilful misconduct) -no liability for immaterial damage such as financial or commercial damage, loss of clients, raise of general costs, loss of profit, loss of	- bodily loss - material damage -immaterial damage (including .for IM: fees not charged and compensation for cancellation of fees .for RUs: immobilisation of trains, damages paid to RU's clients by law)	Parties agree to their respective part of liability	Limited to the same extent as the contract	3 years

			<ul style="list-style-type: none"> - force majeure, unavoidable external causes - fault/order of IM / RU - the fact of a third party 	reputation, etc. - liability limited to 1000x the amount of the fees concerned for immaterial damage				
HU MÁV	Contract (model in the Network statement - Annex 2.4, Chapter V)	No answer but settling procedure is said non-discriminatory	1. Liability based on fault (breach of the law) Relief: Force majeure 2. Risky activity: Strict liability (meaning causality between damage and activity of the IM or between damage and operation of trains by IM) Relief -beyond the risky activity -victim's fault -abnormality (or malfunctioning) in the sphere of the other activities	/	<ul style="list-style-type: none"> - bodily injuries - provided in statutory provisions (all type of damage provided there is a causal link) 	<ul style="list-style-type: none"> - liabilities to the extent of the attributable cause - contributory negligence (for bodily injuries) 	/	/
IE Irish Rail	None	None	N/A	N/A	N/A	N/A	N/A	N/A
LT JSC Lietuvos Geležinkel iai	No contract provided / Network Statement available but no liability provisions provided	N/A	N/A	N/A	N/A	N/A	N/A	N/A
PL PLK	No contract provided / Network Statement available but only contains general	N/A	Provided in statutory provisions and in Contract	<ul style="list-style-type: none"> - No liability if exceptional or crisis situation - PKP is not liable when RU does not adhere 	<ul style="list-style-type: none"> - not the costs borne as a result of accounting for other contracts signed by the party - not the loss of benefits 	N/A	N/A	N/A

	principles (hereby described)			to the parameters of the journey	Except - if stems from law - if intentional guilt or gross negligence - if contract with another RU			
RO CFR	Contract (Annex 2 of the Network Statement)	No	<p>IM liable if accident because of / as a result of the performance of the specific activities</p> <p>Relief for bodily & pecuniary loss: -Force majeure -circumstances not connected to IM -victim's fault -third party</p> <p>Relief for material damage & pecuniary loss: RU's fault</p> <p>liability of RU if: - damages caused by rolling stock, passengers or goods; - by trains, convoys and rolling stock used for supply; - liable for integrity of transportation</p> <p>Relief: Force majeure</p>	/	<p>IM is liable for: -bodily loss -damages to property -pecuniary losses resulting from national and international conventions</p> <p>RU is liable for: Not specified (general rules would apply – foreseeable and direct damage)</p>	Liabilities to the extent of the attributable cause	/	/
UK 1 Network Rail	Contract approved by RB (ORR)	Different liability caps per client	<p>Liability based on fault:</p> <p>1) liability of IM: - a failure to comply with Safety obligations - Environmental damage arising directly from acts or omissions of BRB or IM - negligence</p> <p>2) liability of RU:</p>	If exceeds Liability Cap referred to in the contract	Relevant losses: all costs, losses (including loss of profit and loss of revenue), expenses, payments, damages, liabilities, interest	/	/	/

			<ul style="list-style-type: none"> - a failure to comply with Safety obligations - Environmental damage arising directly from acts or omissions of RU or IM - negligence <p>. reference to CAHA</p> <p>.thresholds for liability (damage to property)</p>					
UK 2 Eurotunnel	No contract provided / Network Statement available but no liability provisions provided The NS merely states that agreements on liability, based on the principle of reciprocal waiver of recourse for third party claims and reciprocal waiver of recourse for each other's losses and damages, may be required.	No	Nothing in the NS / should be provided in the contract	N/A	N/A	N/A	N/A	N/A
UK 3 Translink	No contract provided	N/A	N/A	N/A	N/A	N/A	N/A	N/A