

Mapping and analysis of the legal framework for implementing the electronic freight transport information (eFTI)

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Elektroonilisele kaubaveoteabele üleminekuks vajaliku õigusraamistiku kaardistamine ning analüüs

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Abbreviations and acronyms used

Abbreviation	Meaning
AdES	Advanced electronic signature
ADN	European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways
ADR	European Agreement concerning the International Carriage of Dangerous Goods by Road
AWB	Air waybill
CIM UR	Uniform Rules Concerning the Contract of International Carriage of Goods by Rail (Appendix B to COTIF)
CMNI	Budapest Convention on the Contract for the Carriage of Goods by Inland Waterway (Budapest Convention)
CMR	Convention on the Contract for the International Carriage of Goods by Road (RT II 1995, 3, 12)
Additional Protocol to the CMR	Additional Protocol to the Convention on the Contract for the International Carriage of Goods by Road (CMR) Concerning the Electronic Consignment Note (RT II, 8.11.2016, 1)
COTIF	Convention concerning International Carriage by Rail (RT II 2004, 13, 5)
DTLF	Digital Transport and Logistics Forum, an expert group of the European Commission
DTTF	Digital Transport and Trade Facilitation Committee, a committee of the European Commission
e-AWB	Electronic air waybill
eFTI	Electronic freight transport information within the meaning of the eFTI Regulation
eFTI Regulation	Regulation (EU) 2020/1056 of the European Parliament and of the Council on electronic freight transport information
eIDAS Regulation	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
EU	European Union
EUROCONTROL	European Organisation for the Safety of Air Navigation
EVR	A system developed by the Estonian Forest and Wood Industries Association in which e-waybills from various forest management software are registered and where e-waybills can be added via the user interface
The Hague Rules	International Convention for the Unification of Certain Rules of Law relating to Bills of Lading, and Protocol of Signature of 1924, regulating international carriage of goods by sea.
The Hague-Visby Rules	1968 convention governing international maritime transport and specifying the Hague Rules (1924), officially Protocol Amending the International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading
The Hamburg Rules	United Nations Convention on the Carriage of Goods by Sea (1978), regulating international carriage of goods by sea.
IATA	International Air Transport Association
ICAO	International Civil Aviation Organization
ICC	International Chamber of Commerce
GDPR	Regulation on the protection of natural persons with regard to the processing of personal data, Regulation (EU) 2016/679 of the European Parliament and of the Council
IMDG Code	The International Maritime Dangerous Goods Code
KarS	Penal Code (RT I, 11.3.2023, 10)

Abbreviation	Meaning
KORs	Law Enforcement Act (RT I, 14.3.2023, 29)
Road Traffic Act	Road Traffic Act (RT I, 30.6.2023, 34)
MKM	Ministry of Economic Affairs and Communications
ETCB	Estonian Tax and Customs Board
NAP	National Access Point, today eFTI Gate
PBGB	Police and Border Guard Board
PwC Legal	Law Firm PricewaterhouseCoopers Legal, new business name Tagatisagent OÜ
QES	Qualified Electronic Signature
RID	Regulation concerning the International Carriage of Dangerous Goods by Rail (Appendix C to COTIF)
SADHES	National electronic management system for accompanying documents of excise goods
SMGS	Agreement on International Goods Transport by Rail (RT II, 9.9.2021)
TAF-TSI	Telematics Application for Rail Freight
TAF-TSI	See TAF-KTK
TalTech	Tallinn University of Technology
UIL	Unique electronic identifying links
UNECE	United Nations Economic Commission for Europe
UN/CEFACT	UN Centre for Trade Facilitation and Electronic Business
X-tee	The data exchange layer of information systems
X-tee Regulation	Government of the Republic of Estonia Regulation No 105 'The Data Exchange Layer of Information Systems' of 23 September 2016

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Brief summary

This analysis focuses on the legal aspects of national implementation of Regulation (EU) 2020/1056 of the European Parliament and of the Council on electronic freight transport information (eFTI Regulation).

The adoption of the eFTI Regulation was driven by the desire to promote the digitalisation of freight transport and logistics. The movement of goods, including waste, is accompanied by a large amount of information which is still exchanged in paper format among businesses, and between businesses and competent authorities.

The use of paper documents imposes a significant administrative burden on logistics operators and brings additional costs to logistics operators and related industries (such as trade and manufacturing), particularly SMEs, while also having a negative impact on the environment. The absence of a uniform legal framework at Union level requiring competent authorities to accept relevant freight transport information, required by legislation, in electronic form, is considered to be the main reason for the lack of progress towards the simplification and greater efficiency of information exchanges made possible by available electronic means.

The eFTI Regulation, which applies to the requirements arising from various legal provisions in the field of transportation, creates a new technical solution for making freight transport information available within the EU for road, rail and air transport and freight transport on inland waterways. The eFTI Regulation does not replace the existing content requirements for freight transport documentation, but aims to ensure that the requirements relating to freight transport information can be fulfilled in electronic form in a common format across the EU and in a manner acceptable to the competent authorities.

It must be considered that the eFTI Regulation does not require the application of common procedures and principles for all possible freight transport information. Electronic freight transport information (**eFTI**) within the scope of the eFTI Regulation is limited to the detailed information described in said Regulation, the exact data sets of which are described in a delegated regulation. Thus, the eFTI Regulation regulates the exchange of specifically defined data between the state and the economic operator.

International trade and freight transport information is largely regulated by international law, which is why the regulation of freight transport information in national law is predominantly scarce. Rail transport is based on the requirements of the Convention concerning International Carriage by Rail (**COTIF**) or the Agreement on International Railway Freight Communications (**SMGS**). In air transport, the Convention for the Unification of Certain Rules for International Carriage by Air (**Montreal Convention**) and the Convention on International Civil Aviation (**Chicago Convention**) are of central importance. In addition to these, agreements developed by the International Air Transport Association (**IATA**), which by their nature are not conventions, but are nevertheless widely respected and implemented internationally, have an important significance in practice. The situation is somewhat different in road transport, where domestic transport takes up a large proportion, as well as a number of special types of cargo, due to which the legislator has established special requirements for the documentation of the carriage of goods, but here too, the UN Convention on the Contract for the International Carriage of Goods by Road (**CMR**), which creates a single framework for cargo documentation, is of central importance. The electronic documentation prepared under these Conventions does not fall within the scope of the eFTI Regulation, but this freight transport information provides the basis to smoothly create and organise eFTI data sets and the exchange of eFTI data.

Although the scope of the eFTI Regulation may be extended in the future to other freight transport information, today the Regulation and the related obligations of Member States will be limited to EU-level legal acts listed in the eFTI Regulation and the legislation adopted for their national implementation. These areas are:

- combined transport and cabotage operations, the related requirements of which are regulated on a national level in Estonia by the **Road Transport Act**;
- Transboundary movement of waste, the related requirements of which are regulated on a national level in Estonia by the **Waste Act**.
- transport of hazardous goods, the related requirements for which are regulated on a national level by the **Railways Act** and **Road Transport Act**;

- civil aviation security, the related requirements for which are regulated on a national level by the **Aviation Act**.

The previously mentioned scope delineates the set of **competent supervisory authorities** which, under the eFTI Regulation, must have access to the relevant data set. Competent authorities that are obliged to receive relevant information electronically and who must have access to such information are authorities that need such information in order to carry out public tasks assigned to them, such as verifying and confirming information.

With regard to the legislation within the scope of the eFTI Regulation, the competent authorities in Estonia are:

- Estonian Environmental Board (**Environmental Board**)
- Estonian Transport Administration (**Transport Administration**)
- Estonian Tax and Customs Board (**ETCB**)
- Consumer Protection and Technical Regulatory Authority (**CPTRA**)
- Police and Border Guard Board (**PBGB**).

For example, the Environmental Board and ETCB exercise national supervision under the Waste Act concerning the transboundary movement of waste and the transport of hazardous waste, so they have the competence to verify whether the shipment of waste is accompanied by the required freight transport documentation. If the economic operator has made the documentation electronically available in accordance with the requirements of the eFTI Regulation, the Environmental Board and ETCB must have access to that information and are obliged to receive the relevant information electronically.

Economic operators make freight transport information available electronically in the form of eFTI data sets via platforms designated for processing this information (**eFTI platform**), with the service provided by eFTI service providers. Both eFTI platforms and service providers must comply with the common certification and conformity assessment requirements established under a delegated regulation of the eFTI Regulation.

Data between the eFTI platforms and the competent authorities is exchanged through the national access point for electronic freight transport information (**eFTI Gate**), which, in its essence, is an environment for mediating requests. Each EU Member State has at least one eFTI Gate (or access to one), and these Gates form part of the network of eFTI Gates. A eFTI Gate does not store any freight transport information, except data related to data processing, such as work logs for supervision or statistical purposes. In the most general sense, the eFTI Gate is an information system without being a database.

Data is usually exchanged between eFTI platforms and the eFTI Gate of the same Member State under the eDelivery standard, but other solutions can also be introduced for data exchange within Member States, eg in Estonia it is possible to introduce X-tee for data exchange on a national level, which would provide a more efficient integration with other public services. It should be noted that data exchange between the Estonian eFTI Gate and the eFTI Gate of another Member State can only take place via eDelivery. Data between the eFTI Gate and the competent authorities is exchanged via X-tee. The eFTI Regulation does not regulate in detail how the exchange of data between the eFTI platform and the economic operators concerned using it or transmitting data to it must be organised or what should be the user interface. Nor does the eFTI Regulation set out other services or connections of the eFTI platform, restrict or require the interface between the different eFTI platforms, interfaces with access points or national registers, or other services. Enforcing common standards will allow platform developers to introduce new services that may be of interest to both economic operators and competent authorities.

In addition to access to freight transport information, the acceptance of which is made mandatory for competent authorities under the eFTI Regulation, the eFTI Gate can also provide perspective access to other relevant information relating to freight transport, which can contribute to the performance of important public duties and the provision of services such as rescue operations planning, collecting national statistics, combating tax fraud and smuggling, enforcing international sanctions and ensuring national security.

The **future solution** will include electronic freight information in a standardised form, which will allow operations and procedures related to freight transport information to be carried out significantly faster and with lower resource costs from the perspective of both the economic operator and the competent authority. Today, there is no unified electronic access to this data. Access to data would make it possible to collect

information more quickly, in larger quantity, to provide more accurate assessments of situations and thus to carry out public tasks with a higher quality.

Access by competent authorities to freight transport information is inextricably linked to the investigation principle, according to which the administrative authority has the right to require the parties to the proceedings and other persons to produce evidence and data at their disposal in the course of administrative proceedings. Another person within the meaning of the Administrative Procedure Act may also be the operator of an eFTI platform. The information and evidence that the administrative authority may demand in administrative procedures may also be in electronic form.

On the other hand, in **developing a future solution, in addition to the potential benefits** of access to a large volume of freight transport information, the potential risks and their mitigation options must also be taken into account. Immediate access to data within the meaning of the eFTI Regulation does not imply unrestricted access. Officials of the competent authorities have access to regulatory information and the right to process data only after the identity of those officials has been duly established, ie through authentication, and the authorisation to access and process the data has been established. The corresponding data processing by an official of the competent authority is recorded in the logs. An official of the competent authority does not have the right to access data or data sets that are not necessary for conducting the administrative procedure.

The eFTI Regulation does not deviate from the rules for the protection of personal data. If personal data are processed in the eFTI information systems, there must be at least one legal basis for this, as set out in Article 6 of the General Data Protection Regulation (GDPR). In the context of the eFTI, the following examples of data processing can be identified:

- where the competent authority has to verify the data in the public interest, the processing of data is necessary for the performance of a task carried out in the public interest pursuant to Article 6(1)(e) of the GDPR;
- where the economic operator concerned draws up an electronic waybill pursuant to law, it can be considered as a statutory obligation to process data on the basis of Article 6(1)(c) of the GDPR;
- if the carrier of the goods has to provide data to the recipient of the goods on the basis of obligations arising from the contract, this is the processing of data necessary for the performance of a particular contract on the basis of Article 6(1)(b) of the GDPR.

Since the eFTI Regulation does not replace the existing requirements but aims to ensure that the requirements relating to freight transport information can be fulfilled in electronic form in a uniform format across the EU and in a manner acceptable to competent authorities, there is no need to substantially modify the content requirements relating to freight transport information when implementing the eFTI at national level. It is necessary to supplement the national regulation, in particular, with regard to:

- exchange of data between economic operators and eFTI platforms;
- the technical and functional requirements of the eFTI platforms;
- requirements for the exchange of data between eFTI platforms and competent authorities;
- the definition of competent authorities in national law;
- the location of the eFTI Gate in the national information system and the detailed requirements for the related data exchange.

In other words, it is necessary to **define in Estonian national legislation the detailed conditions for the exchange of data** between economic operators and eFTI platforms and the eFTI Gate in matters not regulated by the eFTI Regulation and/or its implementing and delegated regulations. There may also be a need to supplement national regulation with regard to the cross-use of data and the application of the principle of once-only request for information not directly covered by the eFTI. If, in Estonia, there is a wish to grant access to the relevant information to another authority for the performance of a public duty, such as ensuring security or for statistical purposes, this also requires the establishment of additional regulation in national law. Under national law, it may be appropriate to provide for immediate access to freight transport information made available through the eFTI Gate to the Rescue Board and the Emergency Response Centre in order to organise rescue operations more efficiently.

At national level, it may also be necessary to regulate more precisely the legal force of electronic waybills, ie their equivalence with a paper waybills note and their conditions. The electronic waybill is enabled for both road, air and rail transport, as well as freight transport by sea and inland waterways.

International conventions do not precisely regulate the technical procedure required for the identification of declarations of intent, ie how authentication and approval of operations should be carried out. The eCMR for road transport provides descriptions of the conditions for electronic consignment note authentication, but also allows the use of a solution authorised in the country where the accompanying document is drawn up. CIM UR for rail transport allows the use of a solution in which the procedures for the electronic storage and processing of data are functionally equivalent. In the case of air transport, the Montreal Convention allows the storage of freight data on another medium instead of an air waybill, but does not establish specific procedural requirements in this regard. The use of an electronic waybill is also permitted under the Chicago Convention. However, in the case of air transport, it is important to bear in mind that most important requirements arise from the IATA Resolution 972 and the Data Interchange Standard approved by IATA Resolution 670. In the case of IATA, it should be considered that the parties to its agreements are airlines which have voluntarily submitted themselves to the agreements developed by IATA. Therefore, the IATA rules are not directly applicable to countries.

For the national implementation of the eFTI Regulation, it is reasonable to establish the central regulation in the Road Transport Act, which today has the most comprehensive regulation on freight transport information out of all the legislation within the scope of eFTI. Conditionally, the regulation in force in the Road Transport Act is not only central to road transport, as § 33 of the Act also establishes requirements for combined transport, ie transport where road is used on the initial leg of the journey and, on the final leg, based on the same carriage document, rail or inland waterway or maritime services or vice versa. It should be considered also that, although matters related to freight transport information are the most thoroughly regulated in the Road Transport Act, it is the road transport sector where the digitalisation lag is greatest due to the specificities of the sector. The introduction of a central regulation in the Road Transport Act could thus significantly contribute to the introduction of electronic freight transport information for road transport and take into account sector-specific aspects in the best possible way. When establishing a central regulation in the Road Transport Act, regulation should be transposed by a reference standard in other relevant legislation (ie Waste Act, Railways Act, Aviation Act). Given that eFTI is primarily a technical solution that must be flexible to changes, it would be prudent to include an appropriate mandate provision in the central Act (Road Transport Act) and to lay down technical details in a Regulation.

In view of the national implementation of the eFTI Regulation, it should be taken into account that the eFTI Regulation requires competent authorities to be ready to accept electronic freight transport information made available in accordance with the requirements of the eFTI Regulation 30 months after the date of entry into force of the first delegated or implementing act. Regulations enter into force on the dates specified therein or, in the absence thereof, on the twentieth day after publication. Given the current state of the procedure for the adoption of delegated and implementing acts, it can be assumed that the obligation to accept electronic freight transport information by the competent authorities will not apply until 2027.

As for the implementation schedule, it is necessary to take into account the time it will take to:

- develop and obtain approval for the draft legislation;
- conduct proceedings on the draft legislation in the Riigikogu;
- draw up the necessary implementing act;
- develop the eFTI Gate as an information system.

The development of a draft legislation should primarily address the issues that are absolutely necessary for the national implementation of the eFTI Regulation. While other regulatory aspects could be considered in the national implementation of the eFTI Regulation, such as additional possibilities for cross-use of data from a real-time economy perspective and access to information by other authorities, this requires a separate, more in-depth analysis and impact assessments, which could thus lead to delays in the processing of the draft and thus the national implementation of the eFTI Regulation as a whole.

Introduction

Regulation (EU) 2020/1056 on electronic freight transport information adopted by the European Parliament and the Council in July 2020 (**eFTI Regulation**) creates a framework for the safe, secure and fully interoperable exchange of information between economic operators and authorities regarding the movement of freights in the EU. The eFTI applies as from 21 August 2024. Upon implementation of the eFTI, competent authorities will be responsible to accept electronically submitted freight transport information 30 months after the adoption of the first delegated and implementing act.

The aim of the analysis is to develop a comprehensive legal methodological approach for the implementation of the eFTI Regulation in Estonia.

This final report has been prepared by PricewaterhouseCoopers Legal (**PwC Legal**) and Tallinn University of Technology (**TalTech**) for the Ministry of Economic Affairs and Communications ¹ and the Ministry of Climate (**contracting authority**) in accordance with the public contract awarded on 22 December 2023 as part of public procurement '*Elektroonilisele kaubaveoteabele üleminekuks vajaliku õigusraamistiku kaardistamine ning analüüs* [Mapping and analysis of the legal framework for implementing the electronic freight transport information] (reference number 268245)' (**public procurement**). Law Firm TGS Baltic (**TGS**) and PricewaterhouseCoopers Advisors (**PwC**) participated in the preparation of the final report as subcontractors.

The analysis is based on the background description and the terms of reference given in the technical specifications of the public procurement and the joint tender of PwC Legal and TalTech together with the attached time and action plan.

The documentation resulting from the analysis includes the following:

- Final report
- The summary of the final report in Estonian and English
- Figures of the final report
- Presentation of the final report
- Interim report 'Mapped legislation and competent authorities'
- Results of the questionnaire
- Presentations at the discussion seminar
- Overview of previous studies and analyses
- Overview of the eFTI processes

The analysis was conducted between December 2023 and August 2024.

¹ New business name Tagatisagent OÜ.

1. Initial situation and background of work

1.1. Initial situation and purpose of work

1. The need for analysis is based on Regulation (EU) 2020/1056 of the European Parliament and of the Council on electronic freight transport information (eFTI) (hereinafter: eFTI Regulation) adopted in July 2020 and applying from 21 August 2024.
2. Upon implementation of the eFTI, the competent authorities are obliged to accept the electronically submitted accompanying documents for freight transport 30 months after the adoption of the delegated and implementing acts. The aim of the analysis is to develop a comprehensive legal methodological approach for the implementation of eFTI in Estonia.
3. Pursuant to recital 2 of the eFTI Regulation, the Regulation aims to encourage the digitalisation of freight transport and logistics to reduce administrative costs, improve enforcement capabilities of competent authorities, and enhance the efficiency and sustainability of transport.
4. The movement of goods, including waste, is accompanied by a large amount of information which is still exchanged in paper format among businesses, and between businesses and competent authorities. The use of paper documents imposes a significant administrative burden on logistics operators and brings additional costs to logistics operators and related industries (such as trade and manufacturing), particularly SMEs, while also having a negative impact on the environment.
5. The absence of a uniform legal framework at Union level requiring competent authorities to accept relevant freight transport information, required by legislation, in electronic form, is considered to be the main reason for the lack of progress towards the simplification and greater efficiency of information exchanges made possible by available electronic means. The acceptance by competent authorities of information in electronic form with common specifications would ease not only communication between competent authorities and economic operators but, indirectly, also the development of uniform and simplified business-to-business electronic communication across the Union. The broader implementation of the eFTI Regulation would also lead to significant administrative cost savings for economic operators, and particularly SMEs, which constitute the large majority of transport and logistics companies within the Union.²

² Recitals 2 to 4 of the eFTI Regulation.

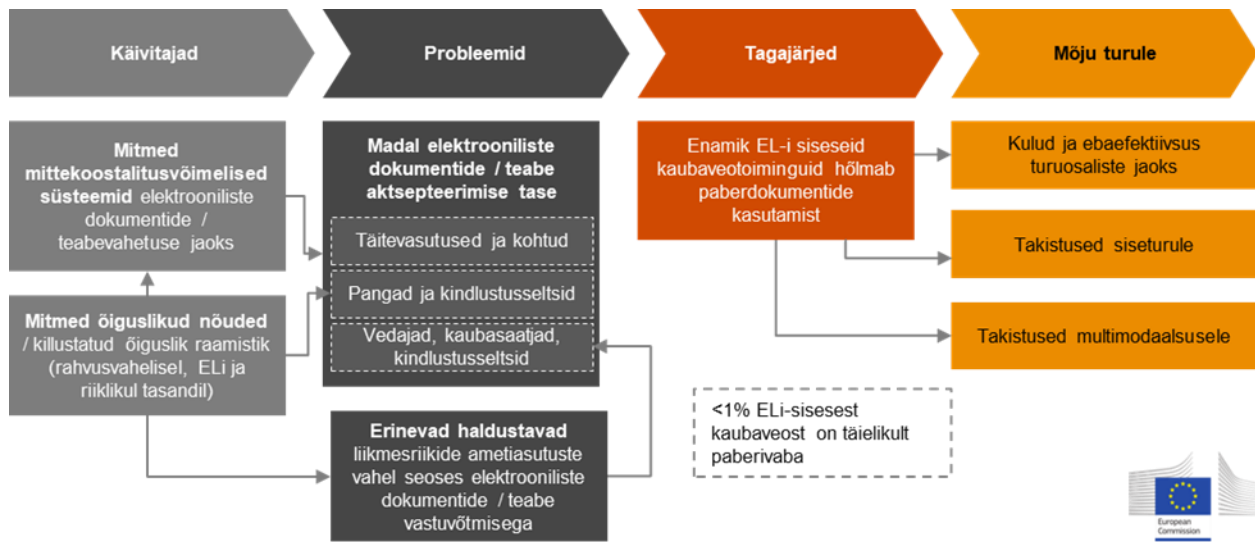


Figure 1. European Commission baseline situation description justifying the need for the eFTI Regulation

1.2. eFTI Regulation

6. Article 2 of the eFTI Regulation establishes a legal framework for the electronic communication of regulatory information between the economic operators concerned and competent authorities in relation to the transport of goods on the territory of the Union, and for that purpose:

- sets out the conditions based on which competent authorities are required to accept regulatory information when that information is made available electronically by the economic operators concerned;
- sets out rules on the provision of services related to making regulatory information available electronically by the economic operators concerned to competent authorities.
- defines 'regulatory information' with the information requirements laid down in the rules and regulations referred to in Article 2(1) of the Regulation;
- provides an opportunity to consider the creation of access points, the main function of which is to enable the efficient exchange of electronic freight transport information between competent authorities and eFTI platforms.

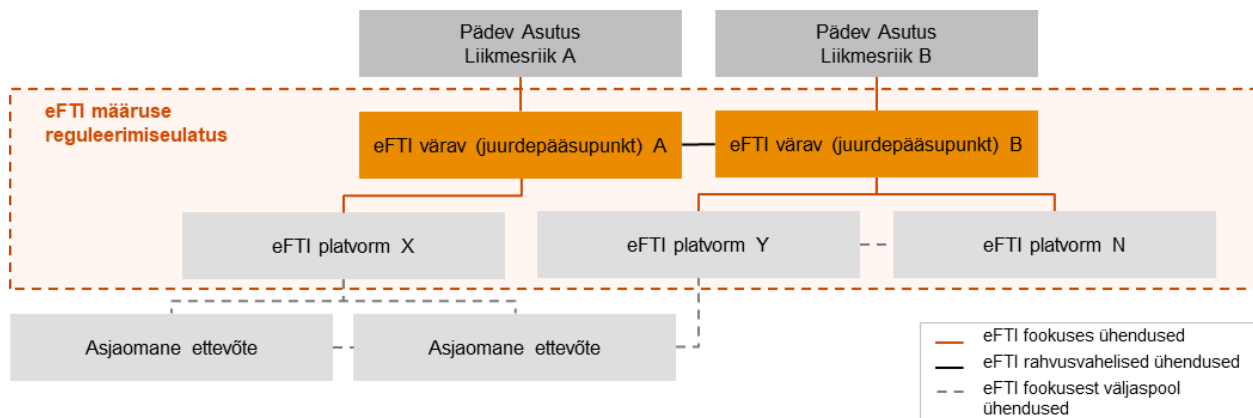


Figure 2. Scope of the eFTI

7. The definition of 'competent authority' is set out in paragraph 3 of Article 3 of the eFTI Regulation. Competent authority means a public authority, agency or other body which is competent to perform tasks

pursuant to the legal acts referred to in Article 2(1) of the eFTI Regulation and for which access to regulatory information is necessary, such as checking, enforcing, validating or monitoring compliance on the territory of a Member State. The competent authority is therefore not any authority with a connection to the information referred to in Article 2(1) but solely an authority that requires access to the information to perform specific supervisory duties, such as verifying and confirming information.

8. In the context of Estonia, the competent authorities on eFTI are the Police and Border Guard Board (**PBGB**), the Estonian Tax and Customs Board (**ETCB**), the Estonian Environmental Board (**Environmental Board**), the Estonian Transport Administration (**Transport Administration**) and the Consumer Protection and Technical Regulatory Authority (**CPTRA**).
9. The regulatory information which the competent authorities are obliged to accept in electronic form is defined in Article 2 of the eFTI Regulation. Article 2 distinguishes the following information:
 - information arising directly from those provisions, namely Article 6(1) of EEC Council Regulation No 11, Article 3 of Council Directive 92/106/EEC (12), Article 8(3) of Regulation (EC) No 1072/2009 of the European Parliament and of the Council, point (c) of Article 16 and Article 18(1) of Regulation (EC) No 1013/2006;
 - information arising from Directive 2008/68 of the European Parliament and of the Council referring to information required by the European Agreement concerning the International Carriage of Dangerous Goods by Road (**ADR**)³, Regulations concerning the International Carriage of Dangerous Goods by Rail (**RID**) and the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (**ADN**).^{4 5}
 - information arising from clause 1 and 2 and from regulatory information requirements laid down in delegated or implementing acts adopted by the Commission pursuant to Directive (EU) 2016/797 of the European Parliament and of the Council or to Regulation (EC) No 300/2008 of the European Parliament and of the Council as referred to in Part A of Annex I to the eFTI Regulation — currently points (a), (b), (c), (d), (e), (f) and (g) of paragraph 6.3.2.6 of the Annex to Commission Implementing Regulation 2015/1998 have been referred to. However, this is not a definitive list because, pursuant to Article 2(3) of the eFTI Regulation, the Commission can supplement Part A of Annex I by means of delegated acts.
 - information listed in Part B of Annex I to the eFTI Regulation containing the information requirements arising from the national laws as listed by the Member States and which are wholly or partly identical to the information requirements listed above (clauses 1 to 3) — no information requirements arising from national laws have currently been listed by the Member States in Part B of Annex I to the eFTI Regulation.
10. The regulatory information relates most generally to information regarding freight transport by road, air, rail and inland waterways, ie transport by sea (maritime transport) is outside the scope of the eFTI. Maritime transport is governed by Regulation (EU) 2019/1239 of the European Parliament and of the Council establishing a European Maritime Single Window environment.
11. It follows from the foregoing that the information requirements arising from law to which the eFTI applies are comparatively limited as at the time of preparation of this final report. This means, inter alia, that the obligation of competent authorities to accept information is also limited to the information requirements arising from their provisions of law. However, it should be considered that in practice the required information moves as part of a larger data set, which is required to be submitted under legal sources that do not fall directly within the scope of the eFTI, including international conventions. The eFTI Regulation does not preclude Member States from setting more ambitious targets for the digitisation of freight transport information, eg to ensure that the competent authorities also accept by electronic means freight transport information which does not fall within the scope of the eFTI.
12. Recital 6 of the eFTI Regulation clarifies that the obligation for competent authorities to accept information made available electronically by economic operators should also apply whenever provisions of Union legal

³Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR). Government of the Republic foreign agreement 30.9.1957. — RT II, 30.6.2023, 1.

⁴ Regulation concerning the International Carriage of Dangerous Goods by Rail (RID — Appendix C to the Convention (COTIF)), Government of the Republic foreign agreement. — RT II, 8.2.2023, 3.

⁵ European Agreement concerning the international carriage of dangerous goods by inland waterways (ADN).

acts or national law falling within the scope of the eFTI Regulation require information that is also referred to in relevant international conventions such as the conventions governing the international contracts of carriage in the different transport modes, for example the UN Convention on the Contract for the International Carriage of Goods by Road (**CMR**), the Convention concerning International Carriage by Rail (**COTIF**), the IATA Resolution 672 on E-air Waybill, the Convention for the Unification of Certain Rules for International Carriage by Air (**Montreal Convention**), and the Budapest Convention on the Contract for the Carriage of Goods by Inland Waterways (**CMNI**). Thus, on the one hand, the freight transport information within the scope of the eFTI Regulation includes, on the one hand, freight transport information as narrowly referred to in the eFTI Regulation, but cannot be viewed in isolation from the information required by international conventions affecting the applicable legislation.

13. In turn, recital 7 of the eFTI Regulation clarifies that, since the eFTI Regulation is only intended to facilitate and encourage the provision of information between the economic operators and competent authorities by electronic means, it should be without prejudice to the provisions of Union legal acts or national law determining the content of regulatory information and, in particular, should not impose any additional regulatory information or language requirements.
14. The eFTI Regulation is directly applicable throughout the EU and cannot be derogated from by national law. The same applies to implementing regulations and delegated regulations, ie Member State law cannot restrict or extend its provisions. This also means that national law should not regulate matters that are already regulated at the level of implementing and delegated acts.

1.3. Scope of eFTI implementing acts and delegated acts, schedule for adoption and implementation

15. In accordance with recital 18 of the eFTI Regulation, in order to ensure uniform conditions for the implementation of the obligation to accept regulatory information pursuant to eFTI Regulation, implementing powers should be conferred on the Commission. In particular, implementing powers should be conferred on the Commission to establish common procedures and detailed rules for competent authorities for the access to and processing of that regulatory information where the economic operators concerned make that information available electronically, including detailed rules and technical specifications, and to establish detailed specifications for the implementation of the requirements for eFTI platforms and for eFTI service providers.

16. Three implementing acts are planned:

- **Implementing regulation governing access to eFTI data by competent authorities.** The subject matter involves common procedures and detailed rules, common technical specifications for access by competent authorities to eFTI platforms, including procedures for the processing of regulatory information and for communication between competent authorities and the economic operators concerned in relation to that information, ie the regulation is adopted to specify Article 8(1).⁶ The said legal act has been approved by the Member States and is being published during the period of completion of this work (August 2024).
- **Implementing regulation governing the requirements for EFT platforms.** The subject matter of the implementing act involves the functional requirements of eFTI platforms, ie the implementing act is adopted in particular to clarify Article 9(1). This legal act is being prepared and negotiated with the Member States during the period of completion of this work (August 2024).
- **Implementing regulation governing the requirements for eFTI service providers.** The subject matter of the implementing act involves the requirements for eFTI service providers, ie the implementing act is adopted to clarify Article 10(1) of the eFTI Regulation. This legal act is being prepared and negotiated with the Member States during the period of completion of this work (August 2024).

17. In accordance with recital 19 of the eFTI Regulation, In order to ensure the proper application of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending Part A of Annex I to take into account any delegated or implementing acts adopted by the Commission which establish new Union regulatory information requirements in relation to the transport of goods; and amending Part B of Annex I, in order to incorporate the lists of regulatory information requirements in national law that have been notified to the Commission by the Member States in accordance with this Regulation, and in order to incorporate any new provision of relevant national law which introduces changes to the national regulatory information requirements, or lays down new relevant regulatory information requirements that fall within the scope of eFTI Regulation that have been notified to the Commission by the Member States in accordance with the eFTI Regulation; and in respect of supplementing the eFTI Regulation by establishing and amending the common data set and data subsets in relation to the respective regulatory information requirements covered by the eFTI Regulation; and supplementing certain technical aspects of the eFTI Regulation, namely as regards the rules on certification and the use of the certification mark of eFTI platforms and the rules on certification of eFTI service providers.

18. Four delegated acts are planned:

- **Delegated Regulation governing the eFTI data sets.** The aim is to clarify Article 7 of the eFTI Regulation, ie to establish a common eFTI database and eFTI data subsets, including the corresponding technical specifications on definitions and technical characteristics for each data element in the eFTI database and the eFTI data sets, and amending them in relation to the information requirements under the relevant provisions of law. The draft legislation has been drawn up and requires the approval of the European Parliament and the Council. The draft is at this stage at the time of completion of this work (August 2024).
- **Regulation consolidating the special requirements of the Member States to amend Annex I Part B to the basic act.** Common procedures and detailed rules, common technical specifications for access by competent authorities to eFTI platforms, including procedures for the processing of regulatory information and for communication between competent authorities and the economic operators concerned in relation to that information (to specify Article 8(1)). The draft legislation has been drawn up and requires the approval of the European Parliament and the Council. The draft is at this stage at the time of completion of this work (August 2024).
- **Delegated regulation laying down requirements for conformity assessment of eFTI platforms and service providers.** As far as the authors of the analysis are aware, the preliminary work required for these delegated acts and the preparation of draft positions has begun during the final period of preparation of this work. At the time of completion of the work, it is not yet clear whether the abovementioned subject matters will be addressed in one, two or more legal acts.

⁶ The implementing act referred to has been adopted as of the preparation of the final report.

- **Rules on the certification of eFTI platforms and on the use of the certification mark**, rules on the renewal, suspension and withdrawal of certification, ie to specify Articles 11, 12 and 13. Articles 12(5) and 13(3) of the eFTI Regulation provide the Commission with a delegating authority to adopt an act with the relevant content, if necessary and no date is specified, because the act is prepared as needed.

19. The following figure describes the order of adoption of the relevant acts and the expected schedule of adoption (adjusted as of June 2024).

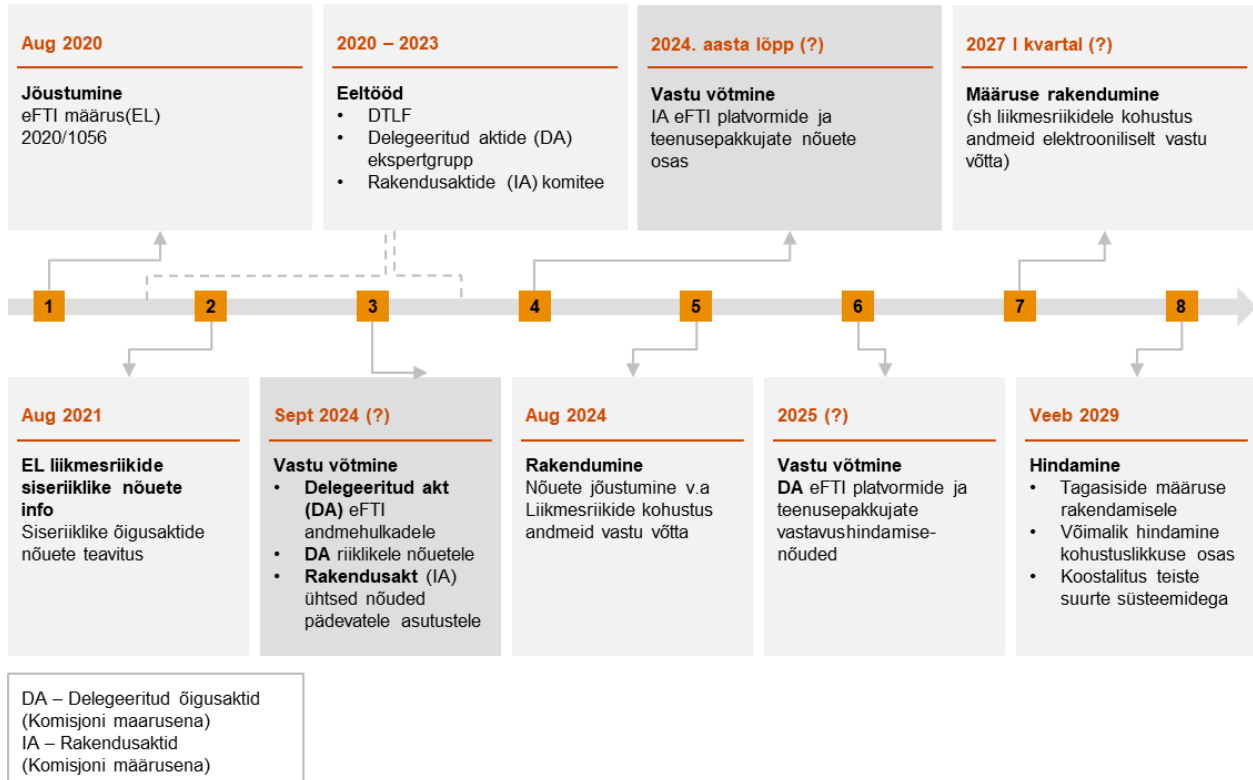


Figure: Order of preparation of the eFTI Regulation and expected schedule for adoption and entry into force of its delegated and implementing acts

1.4. Overview of the eFTI architectural solution

20. The eFTI architectural solution is based, generally, on the exchange of information between economic operators and competent authorities, with the following components:

- eFTI environments or eFTI platforms⁷
- eFTI National Access Points or eFTI Gates (formerly NAP - National Access Point)⁸
- Authority Access Points (AAPs)
- Competent Authority User Applications

21. There are four groups of interfaces in the eFTI architecture:

- interfaces of the economic operators concerned with the eFTI platforms
- eFTI platform interfaces with eFTI Gates,
- interfaces of competent authorities with eFTI Gates,

⁷ Pursuant to recital 8 of the eFTI Regulation, both economic operators and competent authorities would need to take the necessary measures to make possible electronic exchanges of regulatory freight transport information (eFTI) in machine-readable format via platforms based on information and communications technology (eFTI platforms).

⁸ According to recital 13 of the eFTI Regulation, with a view to minimising costs for both competent authorities and economic operators, the establishment of Competent Authorities' Access Points could be considered.

- the interface between the eFTI Gates, or the eFTI Gates network.
- In each Member State, eFTI platforms can be interfaced with a national or regional eFTI Gate.
 - It is sufficient for an eFTI platform to exchange data with the competent authorities via a single interface with a eFTI Gate, so that it can also be available internationally for requests from competent authorities.
 - The eFTI platform is interfaced with the eFTI Gate of the country in which the eFTI platform is certified.
 - Competent authorities are also interfaced with the eFTI Gate. Each database of a competent authority is expected and required to have a single interface with a single (national or regional) eFTI Gate. eFTI Gates ensure the exchange of requests between them.
 - Each competent authority has access to requests made via the eFTI Gate through its own or a common competent authority user interface, which is one of the competent authority officer's tools.
 - The eFTI Gate user interface is not intended for performing queries; the mediation of queries between platforms, services of competent authorities, and other eFTI Gates is carried out via machine-to-machine interfaces.
 - The structure of the connections may also vary from one Member State to another, including due to the need to ensure compliance with national IT requirements.⁹

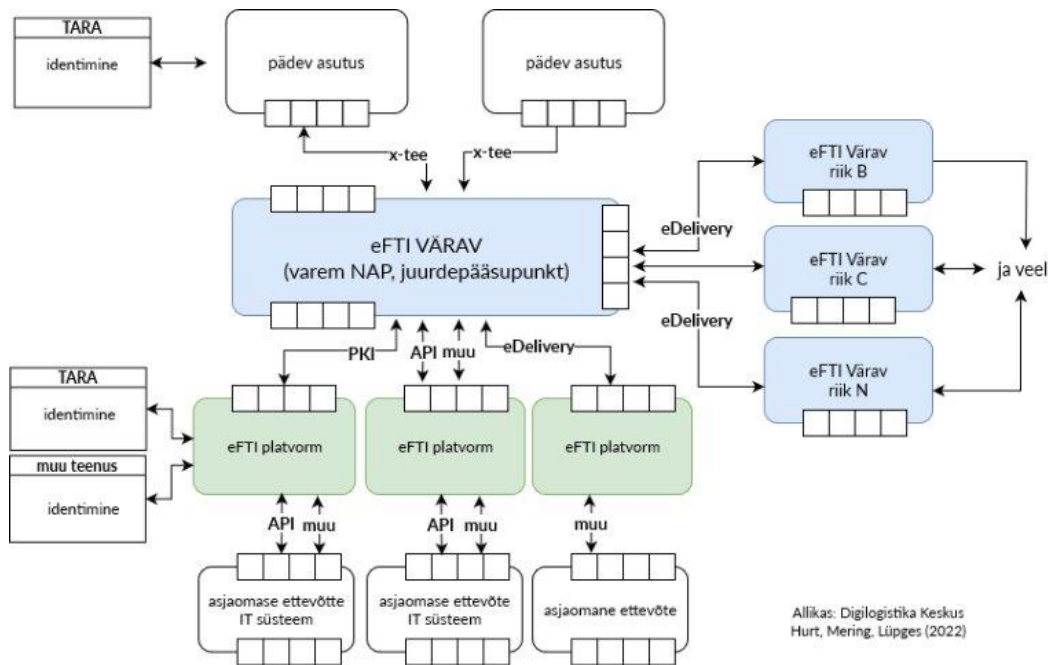


Figure4. eFTI architecture in detail view of Estonia

1.4.1. eFTI platform and eFTI service provider

- An eFTI platform within the meaning of the eFTI Regulation and this document is an information and communication technology (ICT) based solution, such as an operating system, a user environment or a database, intended for the processing of electronic freight transport information (eFTI).
- A eFTI platform is generally an application managed by the private sector. eFTI platforms allow freight transport parties to perform operations with digital waybills (e-AWB, e-CIM, eCMR, etc). eFTI platforms allow the creation and viewing of electronic freight transport information documents. In addition, important functionalities of the platforms include the sharing of movement document between parties and the signing of movement documents and thus the transfer of responsibility for the carriage of goods. The platforms

⁹ Hurt, U. Lüpkes, C. Annikve, T (combined). Analysis of the eFTI Regulation 2020/1056 requirements. Ministry of Economy and Communications. Tallinn 2022, p 21.

also provide users with various convenience features such as automatic reporting and real-time tracking of freight traffic. For the convenience of users, the platforms are often compatible with existing enterprise systems such as enterprise resource planning (ERP) systems and transportation management systems (TMS).¹⁰

31. The following information systems are required for the competent authorities to request data from eFTI platforms:

- the information systems and software of the economic operators concerned,
- register of identifiers (index register) and access point (presumably in one service).

32. For the provision of other eFTI platform services, interfaces may be made with the following services, but this part is not mandatory:

- other eFTI platforms,
- business software,
- e-invoicing environments/services,
- national registers, databases,
- other major national freight transport information transmission environments (customs and maritime information systems).¹¹

33. The conditions and optional functionalities necessary for the expected functioning and acting as a service provider of the eFTI platform have been previously described in the eFTI requirements analysis prepared in 2022 in Estonia. The analysis report used NAP (National Access Point) as the eFTI Gate designation.

Table 1. Excerpt from the analysis of the requirements for eFTI platforms¹²

PRECONDITION	EXPLANATION	eFTI	eFTI being specified	EE optional
CONDITION 1: CERTIFICATION AND READINESS OF THE PLATFORM				
Passing conformity assessment	Passing conformity assessment pursuant to Articles 10, 11, 12 of the Regulation	YES		
CONDITION 2: INTERFACING with NAP or other connection service				
Agreement that it is integrated with NAP when NAP is available.	The platform must be interfaced and a member with an agreement		YES	
NAP interface in Estonia	The service is an X-tee member plus a NAP service contract and interfaced technically)			
CONDITION 3: CUSTOMER CONTRACTS AND CONNECTIONS				
Relevant customer contracts	<ul style="list-style-type: none"> • Data is shown through the eFTI platform, so economic operators must be in a contractual relationship with the eFTI platform 	YES		
Interfaces with IT systems (ERP, TMS, CRM) of economic operators	<ul style="list-style-type: none"> • an important aspect is that the waybill system must allow different economic operators to establish interfaces. It is not required that information is entered manually through the user interface to the e-waybill system, the latter of which may exist as an option, but cannot be a basic way of operation. 	NO		OPTION
Interface with e-invoicing environments	<ul style="list-style-type: none"> • interface with e-invoicing environments 	NO		OPTION
Interface with business software	<ul style="list-style-type: none"> • Interface with business software 	NO		OPTION

¹⁰ M. Malk. Data Exchange Between eFTI Platforms and National Access Points. Tallinn University of Technology Bachelor's thesis Tallinn 2024.

¹¹ Hurt, U. et al (prepared by). Analysis of the eFTI Regulation 2020/1056 requirements, pp 22 to 23.

¹² Hurt, U. et al. Analysis of the eFTI Regulation 2020/1056 requirements, p 37.

PRECONDITION	EXPLANATION	eFTI	eFTI being specified	EE optional
Interface with TMS	<ul style="list-style-type: none"> interface with transport management software/programs (TMS) the data of the economic operators must be displayed by the eFTI platform 	NO		OPTION
User interface	<ul style="list-style-type: none"> a user interface is necessary to review data, add a signature, etc. They may exist as an option, but cannot be a basic mode of operation. 	NO		OPTION
OPTION 1: CONNECTIONS TO NATIONAL REGISTERS				
Interface with national registers	<ul style="list-style-type: none"> Commercial register Register of economic activities 	NO		OPTION
Exchange of customs documents	<ul style="list-style-type: none"> where possible, ETCB interface for the exchange of customs documents 	NO		OPTION
OPTION 2: INTERFACES WITH OTHER FREIGHT TRANSPORT INFORMATION REPORTING DATABASES AND SERVICES				
Interfaces with other EU information systems	<ul style="list-style-type: none"> interfacing with maritime information system interfacing with customs information system 	NO		OPTION
		NO		OPTION
OPTION 3: INTERFACES WITH OTHER eFTI PLATFORMS				
Interfaces with other eFTI platforms	<ul style="list-style-type: none"> Interfaces with other eFTI platforms 	NO		OPTION
Interfaces with possible access points	<ul style="list-style-type: none"> possible interfaces with business-to-business access points 	NO		OPTION

1.4.2. eFTI Gate

34. A eFTI Gate is an ICT-based solution that enables the exchange of data between competent authorities and eFTI platforms to gain access to electronic freight transport information covered by the eFTI Regulation. The eFTI Gate should allow the competent authorities to request data from eFTI platforms, regardless of the eFTI service provider or in which Member State the services are used by the economic operators or through which eFTI Gate the request is carried out by the national authority or agency. In addition to national requests, the eFTI Gate must enable to make requests to the eFTI platforms in other Member States. Requests through the eFTI Gates are intended to obtain an overview of the availability, integrity and content of the data in accordance with an agreed data standard.¹³
35. The eFTI Gate is part of the inspection of the waybill and transport documentation during the active transport (domestic request, request in the direction of the eFTI Gates and eFTI platforms of other countries or the request from a foreign country in the direction of the Estonian eFTI platforms). The eFTI Gate has also a part in the follow-up inspection or approval of the waybills that the waybill has been entered in the register at the eFTI Gate.¹⁴
36. eFTI Gates do not store or process eFTI data except metadata related to the processing of eFTI data at the time of the query, such as identifiers or activity logs. They are used only for legitimate purposes such as routing, template validation, or customisation and for monitoring or statistical purposes. The relevant requirements are set out in the implementing regulation.
37. A waybill index register is maintained at the eFTI Gate, allowing the waybills created and activated on the eFTI platform to be registered as completed sets of documents and to make them searchable for requests by the competent authorities. The transport and waybill metadata are used for indexing.

¹³ Hurt, U. et al. Analysis of the operational model of the Estonian national access point for electronic road transport consignment notes. Tallinn 2022, p 24.

¹⁴ Ibid.

38. Today's architectural solution provides that each Member State has one eFTI Gate which mediates connection with the eFTI platforms and all competent authorities of that Member State.
39. A secure and authenticated network of eFTI Gate connections between different eFTI Gates is used to establish contact between Member States and to mediate requests. Thus, the role of eFTI Gates is to enable data exchange with eFTI platforms as well as with other eFTI Gates. The eFTI Gate is not necessarily an immediate access point for competent authorities; for this purpose, separate competent authority access points (AAPs, see clause 42 jj) are set up in some Member States.
40. The regulatory framework for the functioning of eFTI Gates will be established by implementing acts of the eFTI Regulation. Pursuant to Article 8(1) of the eFTI Regulation: the Commission shall adopt implementing acts laying down common procedures and detailed rules, including common technical specifications, for access by competent authorities to eFTI platforms, including procedures for the processing of regulatory information and for communication between competent authorities and the economic operators concerned in relation to that information. The corresponding requirements are established by an implementing regulation¹⁵, laying down common procedures and detailed rules for accessing and processing electronic freight transport information by competent authorities (**implementing regulation on common procedures**).
41. Pursuant to Article 9(2) of the draft implementing regulation on common procedures, all communication between the eFTI Gates shall take place as message exchanges through eDelivery Access Points, in compliance with the eDelivery message exchange specifications, and using the static discovery mechanism of eDelivery. eDelivery¹⁶ is a set of technical specifications and standards for the exchange of electronic messages developed by the Commission within the framework of the Connecting Europe Facility programme and continuing under the Digital Europe programme.^{17 18}

1.4.3. eFTI Authority Access Point (AAP)

42. The eFTI Authority Access Point (AAP) is a component that provides competent authority officers with access to the eFTI exchange environment and constitutes an officer's sole point of access to that environment. In the most general terms, the functions of the AAP include: to authenticate the identity of a competent authority officer, to process requests by competent authority officers for access to eFTI data (based on their specific access rights), to register requests for access to eFTI data, to forward approved requests for access to eFTI data for processing at the eFTI Gate, to receive responses to requests transmitted by the eFTI Gate and make them available to the competent authority officer in charge via the user application. Member States may establish AAPs either as an external eFTI Gate as part of the existing ICT systems of their respective competent authorities or integrated into their corresponding eFTI Gate.
43. In Estonia, it is planned to create an AAP at the eFTI Gate. In the final report of Analysis of the operational model of the Estonian national access point for electronic road transport consignment notes (NAP analysis, completed in 2022), the access of competent authorities to the eFTI Gate (**NAP**) is described through the public key infrastructure (PKI), which is used in Estonia as an X-tee solution.¹⁹ Recital 13 of the Preamble to the eFTI Regulation clarifies that AAPs would act only as intermediaries between the eFTI platforms and competent authorities, and should therefore neither store nor process the eFTI data to which they mediate access, except for metadata connected to eFTI data processing, such as operation logs necessary for monitoring or statistical purposes. Article 8(2) of the eFTI Regulation states that the Commission shall seek to enhance the efficiency of the administrative procedures and to minimise compliance costs. Thus, the use of already existing AAPs can be considered. Before using existing AAPs, an analysis must be carried out to ensure that data processing and other functions do not deviate from the provisions of the eFTI Regulation on AAPs. The use of X-tee in exchanging data between eFTI platforms and an eFTI Gate on national level will also be made possible by the draft implementing regulation on common procedures currently under preparation. Pursuant to recital 17 of the implementing regulation on common procedures,

¹⁵ The implementing act was approved on 19 December 2023, and is at the time of preparation and completion of this work being published.

¹⁶ *Connecting Europe Facility - eDelivery* [Link](#)

¹⁷ *Connecting Europe Facility - CEF Digital* [Link](#)

¹⁸ *The Digital Europe Programme* [Link](#)

¹⁹ Hurt, U. et al. Analysis of the operational model of the Estonian national access point for electronic road transport consignment notes, p 45.

Member States should be able to use messaging standards and solutions used for other digital public services to exchange information between the eFTI Gate and the eFTI platforms set up by their Member State. Pursuant to Article 9(4) of the implementing regulation on common procedures, where a Member State has already set in place equivalent, nationally defined, secure message exchange specifications for digital public services, they may decide to enable that communication between the eFTI platforms and the eFTI Gate established by that Member State may take place also based on such equivalent message exchange specifications.

44. Recital 18 of the implementing regulation also states that, as AAPs, Member States should be able to use existing electronic solutions ensuring the identification and authentication of officers when they have access to other national digital public services that provide access to personal or business data of third parties. In Estonia, the State Authentication Service (TARA), which is part of the eIDAS network, is used as a solution for the identification and authentication of officials.²⁰

1.4.4. User application of the competent authority

45. The user application enables the competent authority officer to request eFTI data and to use, view, and if necessary, process or transmit the information obtained. The user application is connected to the AAP and thus to the eFTI Gate.
46. More generally, it is a tool or a graphical interface that allows access to the data obtained from the eFTI platforms through the eFTI Gate.

1.5. Summary

47. The freight transport information within the scope of the eFTI Regulation, which the competent authorities are obliged to receive electronically, is limited to the detailed information described in the eFTI Regulation, the exact data sets of which are defined in the delegated regulation, ie for the implementation of the eFTI in Estonia there is no need to describe the respective data sets separately.
48. Competent authorities that are obliged to receive relevant information electronically and who must have access to such information are authorities that need access to the information in order to carry out supervisory tasks, such as verifying and confirming information. Common conditions for access by competent authorities are established by an eFTI delegated regulation, ie for the implementing the eFTI in Estonia there is no need for the conditions of access and data processing by competent authorities to be regulated separately. If, in Estonia, there is a wish to grant access to the relevant information to another authority for the performance of a public duty, such as ensuring security, cross-usage of data, or for statistical purposes, this requires the establishment of additional regulation in national law.
49. Economic operators make freight transport information available electronically through eFTI platforms, which must comply with common certification and conformity assessment requirements established by the eFTI Delegated Regulation, ie for the implementation of the eFTI in Estonia, there is no need for the certification and conformity assessment requirements of the eFTI platforms to be regulated separately. At the same time, the conformity assessment body must be defined nationally.
50. Data exchange between eFTI platforms and competent authorities takes place via the X-tee through the eFTI Gate, which essentially serves as a query mediation environment, meaning that freight transport information is not stored in the eFTI Gate, except for metadata related to data processing, such as work logs required for supervision or statistical purposes. The location of the eFTI Gate in the state's information system must be regulated at national level.
51. The eFTI platform does not regulate in detail how the exchange of data between the economic operators concerned and the eFTI platform should be organised or what the user interface should be. Nor does the eFTI Regulation set out other services or connections of the eFTI platform, restrict or require the interface between the different eFTI platforms, interfaces with access points or national registers, or other services.

²⁰ The State Authentication Service (technical name TARA) is a service centrally provided by the Information System Authority, with which the institution can authenticate ID-card, Mobile-ID, Smart-ID and eID users from other countries of the European Union via its e-service.

These options are freely selectable services for eFTI platforms. The eFTI Regulation does, however, cover AAPs, through which relevant data is accessed only between the eFTI platforms and the competent authorities. Existing systems can also be used as the Authority's Access Point (AAP), but subject to the requirements of the eFTI Regulation. Data is usually exchanged between eFTI platforms and the eFTI Gate of the same Member State under the eDelivery standard, but in Estonia it is also possible to introduce X-tee for data exchange on a national level, which would also allow a more efficient interface with other public services, as well as an API interface between the eFTI platform and the eFTI Gate. However, it should be kept in mind that data between the Estonian eFTI Gate and the eFTI Gates of other Member States can be exchanged only through eDelivery.

2. Methodology and activities

2.1. Mapping of legal acts and competent authorities

52. In the first stage of the analysis, we mapped the legal acts directly or potentially related to the implementation of the eFTI as well as the related competent and concerned authorities.
53. The legal acts reviewed is broken down according to the scope of implementation of the eFTI as follows:
- the eFTI Regulation and the EU legal acts within its immediate scope;
 - international conventions and EU legal acts to be taken into account when implementing eFTI;
 - Estonian legal acts highlighted in the implementation of the eFTI Regulation;
 - Estonian legal acts by mode of transport relevant for the implementation of the eFTI Regulation;
 - Estonian legal acts across modes of transport relevant for the implementation of the eFTI Regulation;
 - legal acts regulating the conduct of administrative procedures and law enforcement;
 - legal acts regulating the architectural solution of databases and information systems.
54. Such a distinction arises from the scope set out in Article 2 of the eFTI Regulation and, in addition, from the fact that the 'regulatory information requirement' as referred to in Article 2 of the eFTI Regulation is aimed more broadly at making 'regulatory information' available. The regulatory information requirement must therefore be seen in a context not related strictly to the information requirements provided in Article 2 of the eFTI Regulation, but more broadly to all relevant freight transport information (eg information the submission of which is prescribed under international conventions).
55. The mapped legal acts are presented under the structure as set out in Figure 5, including highlighting whether these are European Union, international or national legal acts.

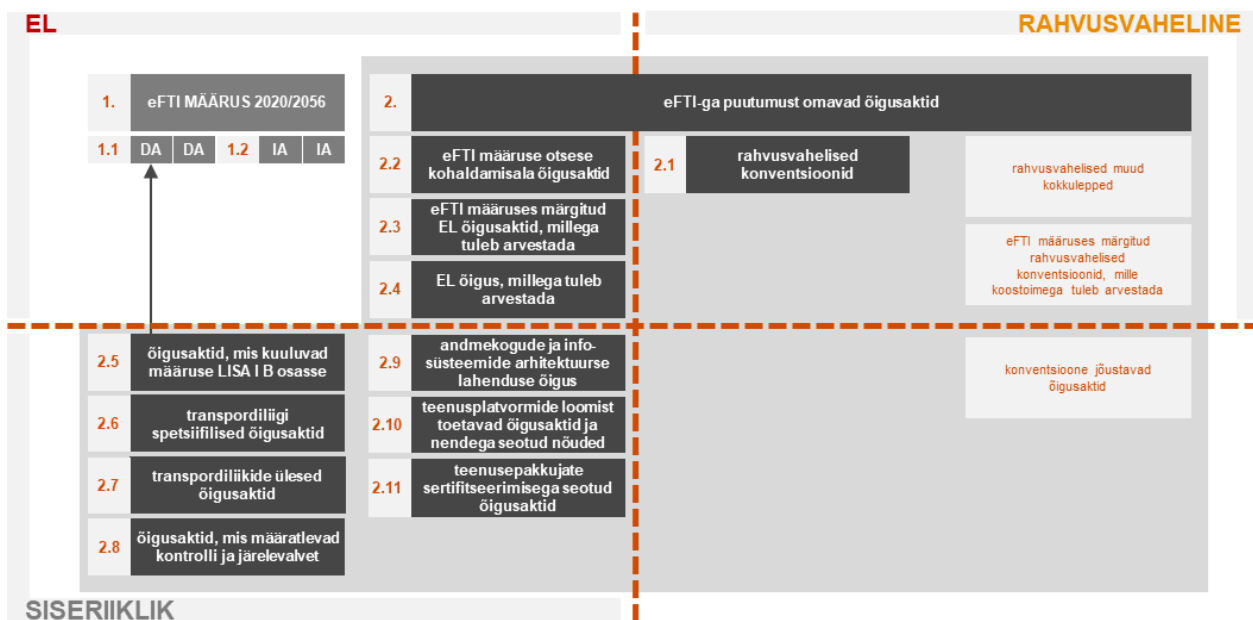


Figure 5. Structure of the mapped legal acts

56. The mapping of the legal acts and eFTI competent authorities is presented as part of the interim report of 27 December 2023.
57. Competent authorities comprise the competent authorities of all EU Member States, ie that the regulatory information must be available not only to requests from national competent authorities but also from other EU Member States. It is important to state here that, according to Article 3(2) of the eFTI Regulation, a

‘competent authority’ is strictly the authority competent to carry out tasks under the legal acts referred to in Article 2(1) of the eFTI Regulation and which needs access to the regulatory information. Therefore, a competent authority within the meaning of the eFTI Regulation is not any authority that is exposed to freight transport information.

58. The mapped authorities that have broader exposure to freight transport information are shown in the table below (Table 2). Competent authorities already referred to above within the meaning of the eFTI Regulation are highlighted in red, ie ETCB, PBGB, Environmental Board and Transport Administration. CPTRA, which exercises state supervision over the transport of hazardous goods by rail, is also conditionally a competent authority. The designation of the CPTRA as a competent authority within the meaning of the eFTI Regulation is conditional due to the CPTRA not carrying out direct verification of freight transport information - the competence of the CPTRA is limited to verifying the implementation of the safety management system at the railway undertaking.

Table 2. Overview of competent authorities and authorities concerned

1. Data Protection Inspectorate	11. Ministry of Economic Affairs and Communications	20. The Information System Authority
2. Finantsinspektsioon (Financial Supervision Authority)	12. Estonian Tax and Customs Board	21. Ministry of the Interior
3. Ministry of Defence	13. National Heritage Board	22. IT and Development Centre at the Ministry of the Interior
4. Estonian Internal Security Service	14. Police and Border Guard Board	23. Statistics Estonia
5. Estonian Defence Forces	15. Agriculture and Food Board	24. Consumer Protection and Technical Regulatory Authority
6. Environment Agency	16. Rescue Board	25. Health Board
7. Estonian Environmental Board	17. Information Technology Centre at the Ministry of Finance	26. Estonian Transport Administration
8. The Information Technology Centre of the Ministry of the Environment	18. Financial Intelligence Unit	27. Estonian Labour Inspectorate
9. Ministry of Climate	19. State Agency of Medicines	28. Ministry of Foreign Affairs
10. Competition Authority		

59. The interim report provided a comprehensive overview of the roles of the authorities in accordance with the mapped legal acts. In the final report, the roles are presented in chapter 3.1.5 and in a table under clause 164.

2.2. Document analysis

60. In the course of the document analysis a variety of previous studies and analyses that are relevant in the context of the present work were assembled. The document analysis provided a basic overview of the current situation and of preparations for the transition to electronic freight transport information. The document analysis included both publicly available materials and materials not publicly available on the internet, but accessible to the relevant experts through the respective working environments.

61. The materials made available by the Digital Transport and Logistics Forum (**DTLF**) and the Digital Transport and Trade Facilitation Committee (**DTTF**) play the most important role in the analysis and background materials for the implementation of eFTI requirements.²¹ These materials are compilations of the results of discussions and analyses that have provided the main input into the overall architecture, access to eFTI data by competent authorities and the requirements of eFTI platforms.

62. Among international organisations, UNECE and UN/CEFACT documents play an important role, particularly in the context of the implementation of the Road Transport and the CMR Convention, but also in relation to multimodal transport and the data model.

63. The next important set of documentation is the work, results, documentation and roadmaps for the implementation of eFTI or electronic freight transport documentation of national and international projects. The projects under observation are eFTI4EU, FEDeRATED, FENIX.

²¹ [Digital Transport and Logistics Forum \(DTLF\), European Commission DG MOVE expert group, LINK and LINK.](#)

64. The studies and analyses in the field of eFTI and eCMR carried out in Estonia and elsewhere, as well as the work, results and documentation of regional projects (DIGINNO, DIGINNO-PROTO and DINNOCAP and NDPTL eCMR project) were under direct observation.
65. In addition, the work carried out by international organizations that manage international conventions or other requirements for different modes of transport (for example, IATA, ICAO, IMO, WCO, etc) has been analysed. On the other hand, there is also feedback from specialist organisations and umbrella organisations such as IRU, CLECAT or INE, which include, among other things, important feedback from stakeholders or the conjuncture, requirements, standards, as well as transport statistics.
66. The structure of the works used:

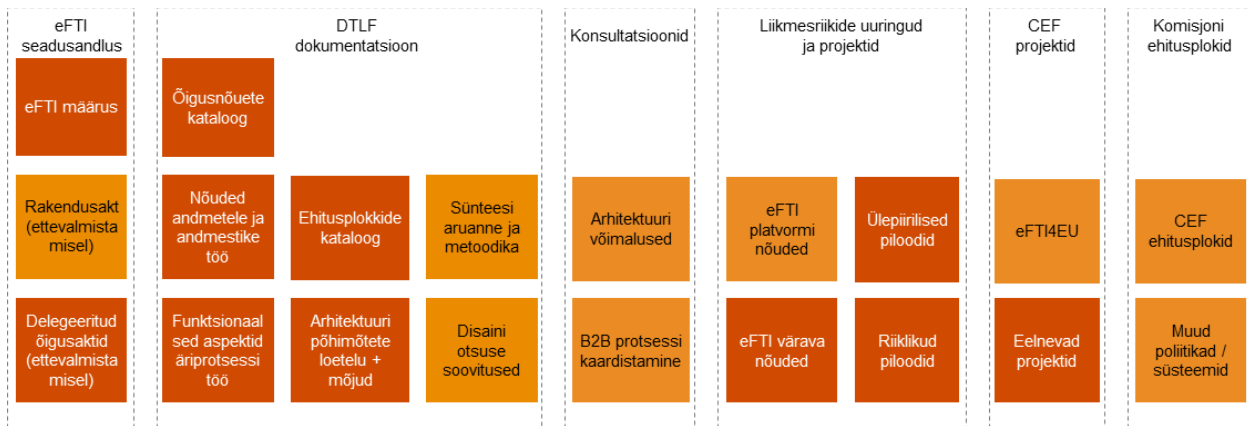


Figure 6. Compiled and analysed material used for the preparation of the eFTI requirements

67. The structure of the works used is expressed in a table:

Table 3. Breakdown and list of previous analysed works

Category of previous works	List of relevant works
1. Studies conducted in Estonia	<ul style="list-style-type: none"> • Analysis of the requirements of the eFTI Regulation (2022) • Analysis of the operational model of the Estonian national access point for electronic road transport consignment notes (2022) • 'Analüüs e-veoselehe riigisiseseks kasutuselevõtuks arendusmudeli väljatöötamiseks' [Analysis for development of a development model for the deployment of eCMR at the national level] (2021)
2. The works of the European Commission, including DTLF documentation	<ul style="list-style-type: none"> • Technical implementation specifications (TIS) of documentation in preparation for competent authorities' access to eFTI data (2023) • TIS Annexes 1-10 • Impact assessment supporting the proposal for the eFTI Regulation (2018) • Analytical work of the European Commission agencies
3. DTLF documents	<ul style="list-style-type: none"> • Work of the Working Groups of DTLF Subgroups 1 and 2
4. Roadmaps	<ul style="list-style-type: none"> • eFTI4EU (Estonia) roadmap • transport roadmaps
5. Works related to the real economy and digitalisation	<ul style="list-style-type: none"> • Documentation on Vision of Real Time Economy (2023) • Digitalisation measures and support measures • Other narrower analyses related to digitization and data
6. Results of regional and national projects, including work on testing the eFTI Gate	<ul style="list-style-type: none"> • NDPTL and Accelerate Estonia eCMR projects • DIGINNO, DINNOCAP • Projects of Member States

Category of previous works	List of relevant works
7. Analytical work of international organisations	<ul style="list-style-type: none"> Documentation of UN Working Groups, including UNECE ICC, DSI, IRU, IMO, WCA, ICAO, CLECAT, IATA
8. Scientific articles and other publications	<ul style="list-style-type: none"> International research articles Books and materials

68. The results obtained as part of the document analysis were used in preparation for expert interviews and questionnaires. The material was also used in comparing and evaluating the various positions.

69. The most important documentation for the content and background of the eFTI requirements is the analytical documentation (technical requirements documentation) prepared for the Member States, consisting of a set of documents on access by competent authorities, documentation explaining the requirements for eFTI platforms, documentation for service providers and information on conformity assessment or certification of the documentation that it contains.

70. The eFTI documentation is described in the figure:

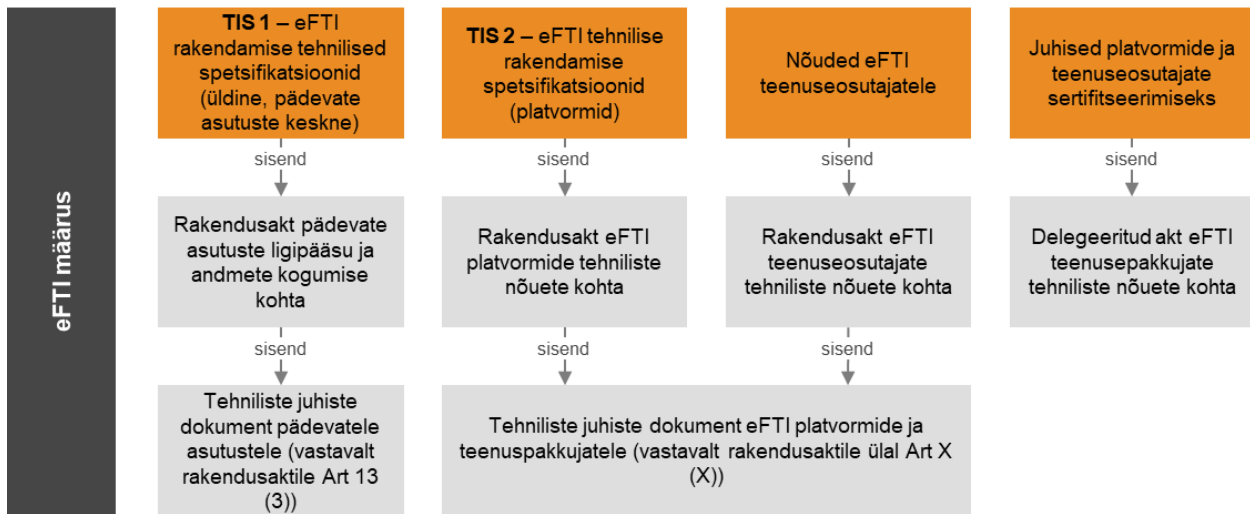


Figure 7. Structure of the European Commission documentation (as at May 2024)

71. The main conclusions of the document analysis have been provided Table 4.

Table 4. A brief summary of the most important views of the document analysis

Issue	Summary and conclusions
Principles and application of architecture	<ul style="list-style-type: none"> Some Member States have not decided whether or not to implement AAP in the architecture Some Member States (eg Italy, Portugal) integrate the eFTI Gate into the entirety of other national logistics services, with maritime single gateway, customs and other solutions
Extensibility of solutions	<ul style="list-style-type: none"> The eFTI solutions must fit into the logic of the overall business process. The EFT solutions must also be extendable so that they can be used for freight transport information requests other than those currently covered by the eFTI Regulation.
Common verification of documentation in different countries and situations	<ul style="list-style-type: none"> The expectation of organising a common verification of electronic versions of documents as a file with digital confirmations, signature confirmations, etc, so that it is suitable both in financial, tax control, accounting document and in legal disputes, especially in the international context.

Issue	Summary and conclusions
Identification of users	<ul style="list-style-type: none"> • Different solutions are suitable for the identification of users, but such solutions must be able to identify the person who has carried out the operations. • If the responsibility can be held by the company (for situations and information that do not require the signature of the person), the responsibility and the user account can also be issued at the informational level. Especially at the stage of receiving the goods. • There are a number of unambiguous European ways and technical solutions for user identification (eg digital signature, user account, PIN codes, etc), but there has been a lack of a common framework and simultaneous use of multiple solutions on a single platform. • Possible monitoring and use of identification and authentication solutions within the eIDAS framework. • The identification solution must also support parties from third countries.
Signing	<ul style="list-style-type: none"> • By mode of transport, all waybills are required to include the signatures of the parties. • The digital signature and confirmation can also be replaced by a confirmation given while logged in to the system, which could also be a digital signature (QES or AdES level) organised if a personalised signature is required, belonging to the national and eIDAS trust services list.
Platform compatibility and one-time data submission	<ul style="list-style-type: none"> • Platform developers and service providers expect clear guidelines and a framework to create standardised solutions. • The proposed universal guideline for interfaces with a description of the messages exchanged between eFTI platforms and eFTI Gates is welcome. • eDelivery as the proposed solution is not a familiar to economic operators and requires a separate set of information and instructions with customer and development support
Data protection, business secret protection and cybersecurity	<ul style="list-style-type: none"> • Market participants, in particular the economic operators concerned, need to be reassured that their data is stored securely on eFTI platforms. • Economic operators also want to be sure that the competent authorities have access only to the data to which they are entitled to and only for the period of time and to the geographical extent that checks on a particular transport can still be carried out today. • With regard to the protection of business secrets, it is important to ensure and confirm that third parties to a particular transport do not and cannot see or process information on an eFTI platform or at a eFTI Gate, including in the form of big data. • Regarding cybersecurity, it is important to define requirements for technological solutions and also to set minimum requirements for platforms.
Legality of supervision	<ul style="list-style-type: none"> • Supervision may only be carried out by an officer authorised to carry out such inspections and must be identified in the system logs of the competent authority in the event of a possible breach. • As part of an eFTI request (both nationally and internationally), only notes on the institution, country of the person making the request and the time of such request remain as logs on the eFTI Gate and eFTI platforms.
Data standard	<ul style="list-style-type: none"> • It is important to implement a single data standard - created on the basis of the UNECE MMT.
Once-only	<ul style="list-style-type: none"> • It is important to consider the expectation of economic operators that data must not be submitted multiple times to different authorities.
Legislation	<ul style="list-style-type: none"> • Expectation of maximum coordination of implementing and delegated acts with technical development guidelines and standards harmonised to the maximum extent

Issue	Summary and conclusions
	<ul style="list-style-type: none"> At the same time, solutions and requirements must ensure maximum technology neutrality.
Different speed of implementation by different Member States	<ul style="list-style-type: none"> Estonia and Luxembourg have a proof of concept of a gate developed within the framework of the EFTI4EU project, some Member States are in the process of development and several have yet to start.²² Member States could also set digitisation requirements for economic operators, for example Spain has decided to make the use of electronic transport documents mandatory for road transport from the third quarter of 2024.²³

2.3. Expert Interviews

72. In order to better understand the current situation from both a practical and a legal perspective, individual and group interviews were conducted between January and April 2024 with representatives of the institutions, organisations and economic operators involved in the analysis. An overview of the interviews conducted is presented in chronological order in the table below (Table 5).

Table 5. Institutions, organisations, economic operators participating in the expert interviews

#	Institution/organisation/economic operator	Group ²⁴	Mode of transport	Date
1.	Association of Estonian International Road Carriers (ERAA)	Specialised association	Road	30.1.2024
2.	Estonian Supply Chain Association (PROLOG)	Specialised association	All	7.2.2024
3.	LiveSoft	Developer	All	7.2.2024
4.	Operail	Economic operator	Rail	8.2.2024
5.	Digital Logistics Center of Excellence (Digital Logistics Center)	Economic operator/developer	All	8.2.2024
6.	Allando Trailways	Economic operator	Road	19.2.2024
7.	Mediterranean Shipping Company (MSC)	Economic operator	Sea	19.2.2024
8.	Estonian Logistics and Freight Forwarding Association (ELFA)	Specialised association	All	19.2.2024
9.	Police and Border Guard Board (PBGB)	Institution	All	26.2.2024
10.	HHLA TK Estonia	Economic operator	All	26.2.2024
11.	Ospentos International	Economic operator	Air	26.2.2024

²² EFTI4EU project documentation. [LINK](#).

²³ TransFollow. Spain makes the use of the digital consignment note mandatory, as of September 2024. [LINK](#).

²⁴ Interviewees are divided into three groups: economic operator (including business representatives, various associations and associations), developer (developers of future eFTI platforms, including consultants) and authority (representatives of the public sector).

#	Institution/organisation/economic operator	Group ²⁴	Mode of transport	Date
12.	Statistics Estonia	Institution	All	28.2.2024
13.	Agriculture and Food Board	Institution	All	28.2.2024
14.	Ministry of Climate	Institution	All	29.2.2024
15.	Consumer Protection and Technical Regulatory Authority (CPTRA)	Institution	Rail	29.2.2024
16.	DPD Estonia	Economic operator	Road	5.3.2024
17.	Estonian Data Protection Inspectorate (Data Protection Inspectorate)	Institution	All	6.3.2024
18.	Estonian Tax and Customs Board (ETCB)	Institution	All	7.3.2024
19.	Wave BL service provider	Developer	Sea	24.4.2024
20.	Estonian Transport Administration	Institution	All	18.6.2024
22	Ministry of Justice	Institution	All	14.6.2024

73. A brief summary of the main findings is presented in the following table (Table 6).

Table 6. A brief summary of the main conclusions of the expert interviews

Issue	Summary and conclusions
Identification of users	<ul style="list-style-type: none"> • There are a number of different ways to identify users and technical solutions to consider in the context of the eFTI (eg digital signature, user account, PIN codes, etc). • Identifying a person through mobile ID and an ID card can be too burdensome for those involved in the transport process. • The identification solution must also support parties from third countries. • For certain types of transport (eg transport of hazardous waste and timber material), personal identification code is also required.
Signing	<ul style="list-style-type: none"> • By mode of transport, there are no uniform agreements at international level to record digital events as a declaration of intent. • Requiring digital signatures is disproportionately burdensome in the opinion of market participants. • The preferred option is to give confirmations by pressing a button while logged in to the system.
Platform compatibility and one-time data submission	<ul style="list-style-type: none"> • The biggest challenge is the different development level of digitalisation across different modes of transport. Most of the challenges lie in road transport. • There is a common misconception that information in pdf format is digital information. • Maritime transport is fairly standardised. The data moves mainly electronically. At the same time, the data is not machine-readable or accessible to the competent authority — the platforms operate on a 'courier' basis, ie the data is moved in an encrypted secure envelope and the information contained therein is presented in pdf format. • Electronic solutions are also used in rail transport. A challenge regarding security is the fact that under SMGS information flows, at least partly, through Russia.

Issue	Summary and conclusions
	<ul style="list-style-type: none"> • Although there are a number of digital solutions, market participants continue to face multiple data submissions. • Platform developers expect clear guidelines and a framework to create standardised solutions.
Data protection, business secret protection and cybersecurity	<ul style="list-style-type: none"> • Market participants need to be assured that their data is kept secure. • Regarding the protection of business secrets, it is important to first identify the minimum set of data that needs to be submitted in order to comply with the requirements. • In terms of cybersecurity, it is important to define the requirements for technological solutions.
Legality of supervision	<ul style="list-style-type: none"> • What needs to be addressed is how to ensure that the supervisory authority really has access only to the data in which it has a legitimate interest in the context of a particular supervisory action. • Consideration must be given to the need for and legal basis of data storage.
Once-only	<ul style="list-style-type: none"> • It is important to consider the expectation of economic operators as well as the state that the same data must not be submitted multiple times to different authorities.
Legislation	<ul style="list-style-type: none"> • At the end of 2023, the European Commission came up with amendments to the Combined Transport Directive (EU Directive 92/106) to promote intermodal transport, which could have an impact on the implementation of eFTI. • Various implementing acts of the eFTI are under development, including with regard to data fields and their content. When implementing acts enter into force, their content must therefore also be taken into account in order to arrive at clarity on amendments to national legal acts.

2.4. Questionnaires

74. In cooperation with the contracting authority, the contractor developed questionnaires based on the target group. The target groups of the questionnaires were: transport and logistics companies, relevant professional associations, competent authorities (public sector) and developers of eFTI IT platforms. The lists of stakeholders were drawn up by the contractor and coordinated with the contracting authority. Electronic questionnaires were distributed to members of the relevant stakeholders on 6 February and were left open until 20 February. The Limesurvey response environment was used.

75. The response rate for the questionnaires was as follows:

- Of the addressees, 416 were economic operators, 35 (8%) responses were received.
- There were 10 recipients from professional associations, 8 (80%) responses received .
- Of the public sector bodies, 30 institutions were sampled, with 10 (33%) responses received.²⁵
- The sample of IT platform developers included 9 companies, and 3 responses were received (33%).

76. The analysis based on the results of the questionnaires is one of the inputs to the analysis of the legal acts related to the eFTI Regulation. The most important conclusions made from the questionnaires are presented in the following table (Table 7).

Table 7. A brief summary of the main conclusions of the questionnaires

²⁵ Respondents represented seven public sector bodies.

Issue	Summary and conclusions
Disputes	<ul style="list-style-type: none"> • 54% of the companies surveyed replied that there were no disputes regarding freight documentation. The majority of disputes (17%) relate to control and supervision, while somewhat fewer occur between companies (13%). Respondents pointed out in free form that problems arise in the following issues and situations: <ul style="list-style-type: none"> – missing or incomplete signatures, documents must be sent later by regular mail; – upon submitting documents, it is difficult for the inspector to understand the handwriting (if the document is drawn up by the driver manually), there are language problems; – economic operators have different forms of freight transport documents in use (which can become a problem in standardising and digitising documents); – although in most cases the carrier relies on the documents issued by the sender of the goods (receiving and signing them), there are also opposite cases when the carrier draws up the documents as the forwarding agent, the carrier; – incomplete or missing accompanying documents ('let the driver write the CMR himself' is a typical answer); – incomplete data on CMRs; – transport of dangerous substances and data on the CMR consignment note; – software problems.
Challenges related to data compatibility	<ul style="list-style-type: none"> • In the case of multimodal or intermodal transport, there is no data transfer, ie when the cargo changes from one mode of transport to another. • There is no digital signature option on international shipments. Carriers have low interest in the subject, with additional costs associated with digitisation. • Lack of a common data model and standard that would generally apply as mandatory. The consequence is that each country, as well as larger economic operator, has its own solutions that are not compatible with those of other operators and that are not accessible to the competent authorities, which in turn leads to additional bureaucracy and spending of resources.
Challenges related to the protection of business secrets and other data in the implementation of eFTI	<ul style="list-style-type: none"> • Issues related to identity verification and signing — the required level of security vs user-friendliness of the system. • Economic operators are not interested in sharing more information with the state than is necessary for the performance of a particular public task. • Cybersecurity level — concern about data protection.

77. On the basis of the findings of the questionnaire, it can be concluded that the transition to electronic freight transport information has so far been hampered by the lack of common standards, both for platforms, e-consignment notes and for the submission of data to competent authorities, especially internationally. Different approaches by Member States and platform developers have led to a situation in which existing platforms allowing the electronic transmission of freight transport information are also not compatible with each other and there are no effective means of establishing access to the data by the national supervisor. The introduction of common standards and the transition to electronic freight transport information could solve a number of problems that today are associated with paper documents: missing or incomplete data, data transfer and updating, data follow-up checks, effective access to the competent authority to exercise supervision.

2.5. Discussion seminars

78. During the period of carrying out the analysis, two discussion seminars were conducted:

- 20 March 2024 — validation of the challenges mapped to date and debate on appropriate solutions;

- 6 June 06 2024 — presentation of the comprehensive solution, discussion and validation of positions.

79. The first discussion seminar (20 March 2024) had four focus topics based on the results of questionnaires and expert interviews:

- Delivery of goods and confirmation of acceptance of goods;
- Identification of users involved in freight transport;
- Platform compatibility and one-time data submission
- Data protection, business secret protection and cybersecurity

80. A brief summary of the main conclusions of the first discussion seminar are presented in the following table (Table 8).

Table 8. Brief summary of the main conclusions of the first discussion seminar

Issue	Summary and conclusions
Confirmation of delivery and acceptance of goods	<ul style="list-style-type: none"> • The events taking place in the logistics process must be confirmed at the eFTI Gate. • Operators must be able to continue working in ERP systems through which freight transport information is generated and transmitted. • It is important to agree on a framework, ie whether to rely on the highest level of identification with the e-ID tool or to consider it sufficient to log in with the user credentials of the economic operator.
Identification of users involved in freight transport	<ul style="list-style-type: none"> • Different modes of transport should have different requirements and levels, and the platform must ensure security - ie the platform must ensure that the data comes from a validated system. • In the case of hazardous or large-scale transport, there should be increased security, eg phased identification. • A natural person should be identifiable and associable with a legal person. Standardisation must be based on eIDAS.
Platform compatibility and one-time data submission	<ul style="list-style-type: none"> • ‘Once only’ could be formulated better in the Public Information Act. Cross-use of data could be increased to reduce the burden on economic operators and the state. • When entering data into platforms, there are specific requirements, including defining responsibility and ensuring the level of security.
Data protection, business secret protection and cybersecurity	<ul style="list-style-type: none"> • The consignment note should not ‘lock’ after a certain period of time. The function of adding notes should remain. • Review of the Official Statistics Act and other Acts in light of new functionalities (paper vs electronic). • The rules for creating databases should also apply to platforms to a certain extent. The requirements for service providers and platforms should be pan-European. • The private sector has a strong interest in protecting its data — smaller platforms are more trusted and considered more secure. • Information should not be available to supervisors by default but only on request/ need basis. • The competent authorities pointed out automated detection of suspicious shipments as one of the possible functionalities. • The retention period of the data must be clearly justified.

81. The legal framework for the implementation of the eFTI was also discussed at the first discussion seminar as a separate topic, ie whether the most appropriate way would be to create a new general law or supplement existing legal acts. The discussions revealed that there is no consensus on whether eFTI needs a separate Act for implementation or whether it is sufficient to amend existing legal acts. Although a general Act may be an easier path than amending several acts or creating new legal acts, current legal acts already cover the electronic formalisation of carriage document and freight transport information, so major changes

to these legal acts would not be necessary. The establishment of an electronic freight transport database was also discussed, but it was concluded that the need for it is low.

82. The second discussion seminar (06 June 2024) focused on the following issues:

- Should authorities in the future be able to accept only electronic freight transport information complying with eFTI requirements or should other approaches be acceptable (sectoral specificities)?
- Cross-use of freight transport information by public authorities outside the scope of the eFTI - where it is most needed for the performance of public tasks and which today hinders effective access to data.
- Possibility and need for automation in supervisory activities related to freight transport information.
- What is the incentive to switch to electronic freight transport information and to bring existing platforms into line with eFTI requirements?

83. A brief summary of the main conclusions of the second discussion seminar are presented in the following table (Table 9).

Table 9. Brief summary of the main conclusions of the second discussion seminar

Issue	Summary and conclusions
<p>Should authorities in the future be able to accept only electronic freight transport information complying with eFTI requirements or should other approaches be acceptable?</p>	<ul style="list-style-type: none"> • Favouring or recognising a single solution poses a risk to innovation. • Parties from third countries are not obliged to use/accept eFTI-compliant freight transport information. Their interest in adopting it may be low, as they tend to follow the UN agreements instead. • It requires discussion and agreement on whether, and to what extent, Estonia wishes to make exceptions for third countries, and who should adapt to whom. • It should be taken into account that Estonia is also a transit country, that is, there is a lot of movement of goods to and from Sweden and Finland, and Estonia may inspect goods that are in transit. • In a situation where several solutions are used, it may be necessary to create a separate 'translation platform' that collects the data and presents it in a uniform way. However, this adds an additional layer, which in turn creates complexity and incurs costs. • The mandatory introduction of eFTI may affect the competitiveness of local economic operators (eg the companies are not able to meet higher requirements). Especially in situations where, for example, other countries do not have requirements established on such level . • The link between eFTI and PISTRİK (the new digital waste reporting environment) is still open. It is important to consider that each additional interface means additional cost. If the requirements are in place, it makes sense that for reporting purposes preference is given to a single solution for making data available (ie either through eFTI platforms or through the national environment) . • It is difficult to make final decisions at the moment, as not all implementing acts have not yet been adopted. To date, there is no complete overview of the platform's functionalities and conformity conditions.
<p>Cross-use of freight transport information by public authorities outside the scope of the eFTI - where it is most needed for the performance of public tasks and which today hinders effective access to data?</p>	<ul style="list-style-type: none"> • Platform data can be much more extensive in B2B interactions and volumes than is required by the state for freight transport inspection. The eFTI Regulation lays down minimum requirements that can be extended nationally. The initial intention would be to review the data fields once a year. • In the case of rail, the infrastructure owner rather than the carrier could develop the required platform. The carrier does not have the capacity and the infrastructure owner must provide data on their goods moving on their railroad. • The use of freight transport information outside the scope of the eFTI is seen as mostly needed for collecting national statistics, which is the responsibility of Statistics Estonia. Today, however, Statistics Estonia does not have the possibility to request information from a central database for compiling national statistics in the field of freight transport.

Issue	Summary and conclusions
	<ul style="list-style-type: none"> It was also considered important to establish the necessary access to the Emergency Response Centre. However, with regard to the processing of emergency notifications by the Emergency Response Centre, it was specified that the role of the Rescue Board is even more important for resolving the incident, which is why the necessary access should be granted not only to the Emergency Response Centre but also to the Rescue Board. A more competent risk assessment (eg upon transport of hazardous goods, hazardous waste, live animals) can be made with regard to the carrier and the cargo involved in an accident, which in turn would allow for a quicker and more appropriate response to accidents.
<p>Possibility and need for automation in supervisory activities related to freight transport information.</p>	<ul style="list-style-type: none"> In order to make an automated decision, it is necessary to have a prior knowledge of what data will be collected and in what form. It then needs to be clarified which part of the freight transport information can be automated at all for supervision. This, in turn, requires a more in-depth discussion and a separate analysis, both from a legal and technical perspective. Based on the data collected, an additional output (eg risk assessment) may be formed in addition to the output defined in eFTI. According to what must be inspected (data fields required by competent authorities) and what can be inspected (data fields defined in the eFTI Regulation). For the ETCB, automation is important. If there is data, then it must be skilfully used in the performance of work duties. Information on both domestic and foreign shipments could be in one system. There is a heightened interest mainly concerning cross-border trade. The need for automation exists primarily in monitoring, not profiling. On the example of the ETCB, interest is shown mainly in prohibited and restricted goods and excise goods. There are many cases where the goods are accompanied by a waybill that does not correspond to the goods being transported. Value is seen in identifying such cases from a large database. However, this requires the availability of electronic information. Information on paper should also still be considered. The view of the data owner must make clear and known to what extent they are being inspected. Communication plays an important role. Otherwise economic operators may not be interested in submitting their data electronically, mainly for fear of misunderstanding. There is also a fear of a leak or disclosure of business secrets. In the case of low interest from economic operator, the automation of supervision may not be financially justified, with no or minimal benefits to speak of. On the one hand, the automation of the supervision procedure would make it possible to free up human resources, but could also create a situation in which the need for response increases after a more extensive inspection. It is necessary to develop principles that define the responsibility of the platform. One of the tasks of the platform should be to ensure establishment of identity / ensurance of identity.
<p>What is the incentive to switch to electronic freight transport information and to bring existing platforms into line with eFTI requirements?</p>	<ul style="list-style-type: none"> The identification of appropriate incentives deserves a more in-depth discussion and the involvement of a wider range of economic operators (ie future users). Communication is also extremely important in order to raise awareness among economic operators and to inform them of the potential benefits. It is important to understand what motivates economic operator in a given context — obligation vs benefit gained. From the perspective of gaining benefit: <ul style="list-style-type: none"> Reduction of manual work, eg automated submission of data to the Statistics Estonia. A lower road user charge (for transits). More favourable conditions in procurements. ESG view, granting green label or similar recognition, obtaining financial resources from credit institutions more favourably through the green label

Issue	Summary and conclusions
	<ul style="list-style-type: none"> • From the perspective of being an obligation: <ul style="list-style-type: none"> – From the point of view of the platform developers, the most effective incentive is that electronic freight transport information is made mandatory. – In some areas it is already mandatory (eg for timber transport) and required (eg in public procurement for road construction). – Establish a transitional period to adapt to new requirements.

2.6. Descriptions and drawings of eFTI processes

84. The process drawings have been prepared in accordance with the six-stage freight transport value chain view, which has been used since 2021 in the preparation of the Estonian Access Point, the eFTI legal analysis and the Enterprise Estonia support measure. The structure of the drawings is the same as in the work and background documents of the European Commission and the DTLF and DTF.
85. Process drawings are part of the documentation handed over to the contracting authority during the analysis, but are not an addition to the final report due to its technical nature. The final report provides illustrative process descriptions and drawings to generalise current (AS-IS) processes in relation to freight transport information and compare them in particular with the future (TO-BE) situation.
86. The process drawings are prepared in the ARIS software and contain a detailed description of each activity with an indication of the roles performing the activities, information systems and documents.











Sümbol	Selgitus	Sümbol	Selgitus
 Eelnev/järgnev protsess	Eelnev/ järgnev protsess	 Dokument	Dokument, mida kasutatakse või luuakse
 Sündmus	Sündmus	 Informatsioon	Informatsioon
 Protsess	Protsess / tegevus		JA - mõlemad teekonnad läbitakse
 Roll	Teostaja		VÕI - üks teekondadest valitakse
 Infosüsteem	Information system (EN)		XOR - valikulise või eraldatud teekonna lõpp

Figure 8. Explanation of drawings of eFTI business processes.

87. The eFTI business processes and user histories are relatively similar across the different transport modes, so the generalisation across the entire eFTI is the same for both AS-IS and TO-BE processes.
88. AS-IS activities are less frequent insofar as there is no electronic submission. A description of the current situation is given in Figure 9.
89. In the future solution, ie upon implementation of the eFTI Regulation, the main change compared to the current situation is that operators will have the opportunity and the need to use eFTI platforms for the creation of transport documents, at the start and end of the journey and the signing of the documentation,

through which it is possible to transmit the notification of the drawn up transport document and the end of the transport to the eFTI Gate (to the register of identifiers). On the basis of such an operation, these registered data sets become findable to requests by the competent authorities.

90. A competent authority officer with the corresponding user rights can use their user application to make an inquiry on a specific data set, vehicle or transport unit. Through the eFTI Gate, data sets are collected in response to the inquiry from those eFTI platforms where the information corresponding to the inquiry is contained in the registers of eFTI Gate identifiers.
91. eFTI Gates can process requests using registered active transport information without the need to search for information on all eFTI platforms.
92. Future solution processes are presented Figure 10.

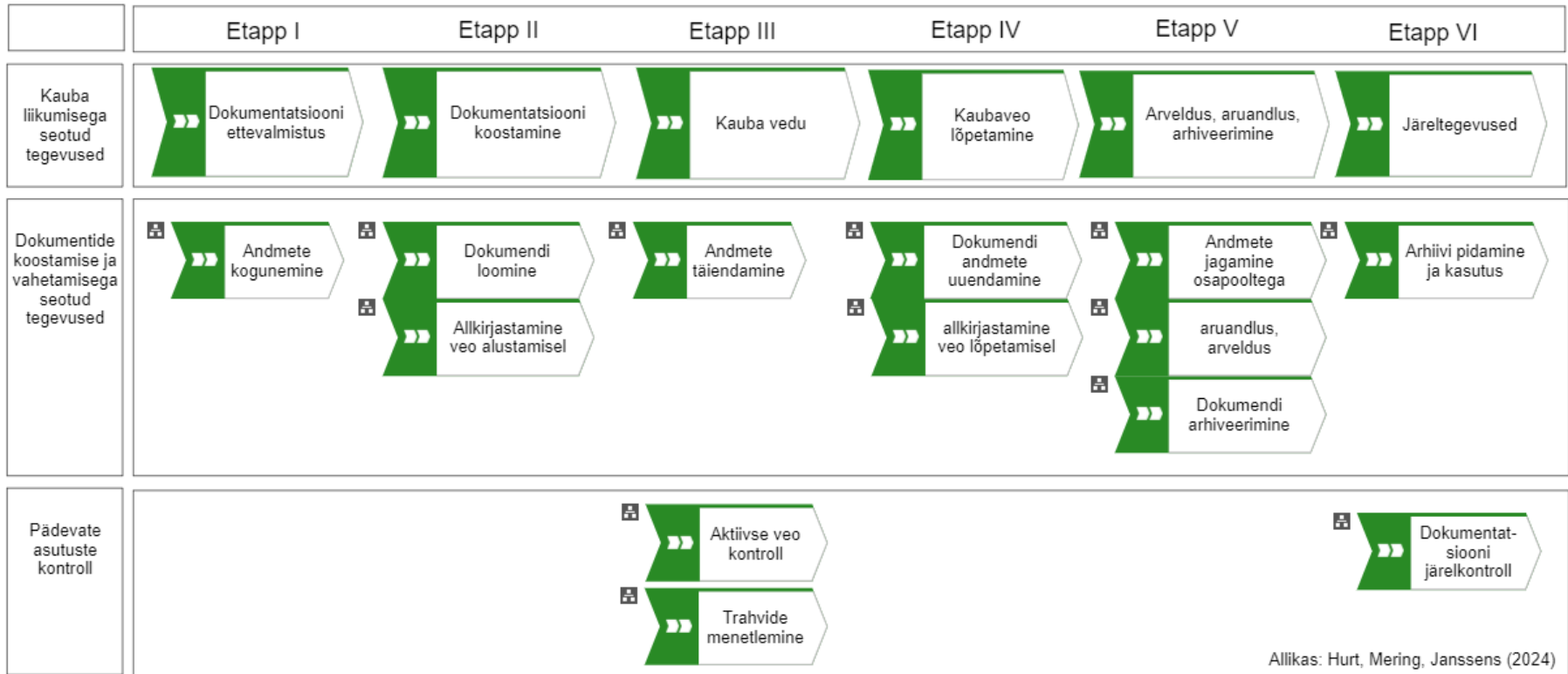
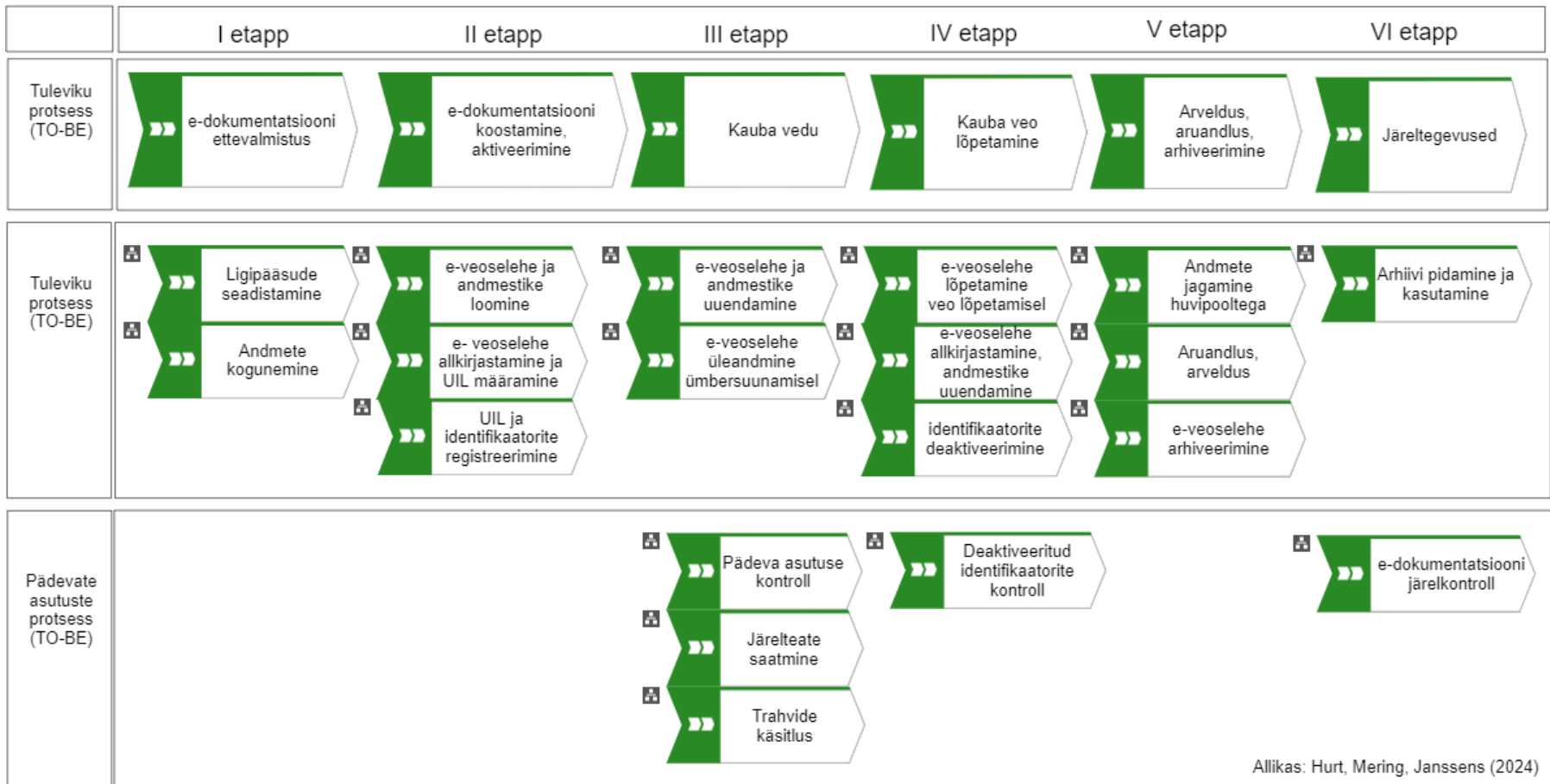


Figure 9. eFTI business processes today (AS-IS) in six stages



Allikas: Hurt, Mering, Janssens (2024)

Figure 10. eFTI business processes in the future (TO-BE) upon the implementation of the eFTI in six stages

93. The work also entails detailed process descriptions for each stage of the process. Each such figure describes the interrelationships between process participants, information systems, activities and documents. Sample about the drawing – Figure 11.

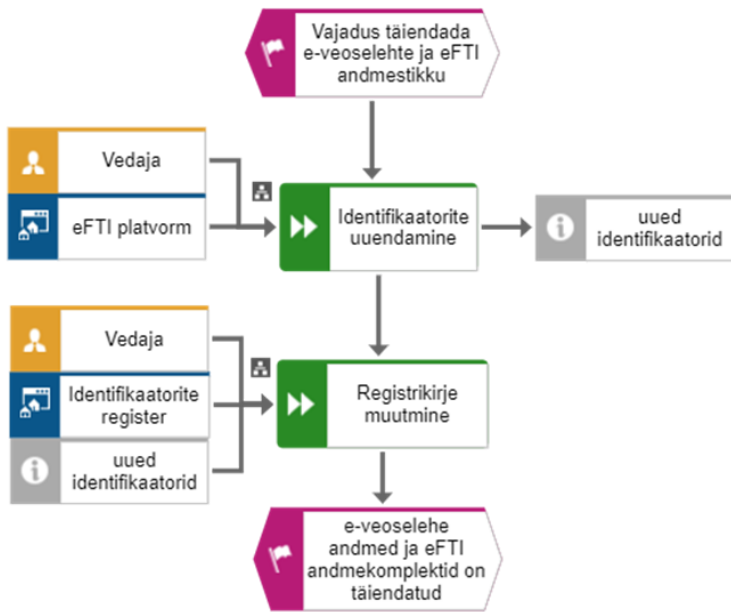


Figure 11. Example of a detailed eFTI business process (update of the e-consignment note and eFTI data set (TO-BE))

94. The figures, together with explanations, will allow institutions and companies implementing the eFTI requirements to better assess which activities are carried out by the different parties and which activities are supported and carried out by the different eFTI platforms or other information systems.

3. Analysis of the current situation

3.1. Current situation from a legal perspective

95. The chapter looks at the legal acts of all modes of transport at three different levels:
- international agreements, conventions, etc
 - European Union (EU) legal acts and
 - national legal acts.
96. It is also explained whether and how international and EU law has been transposed into domestic law. All of the above is done with regard to the scope of the eFTI Regulation.
97. Competent supervisory authorities, which must be guaranteed access to eFTI data, were also identified on the basis of the relevant national legal acts for the implementation of the eFTI Regulation. It should be noted that the eFTI Regulation applies only to a limited proportion of freight transport information and, in the longer term, the objective at EU level is undoubtedly to expand the scope of data exchanges covered by said Regulation.
98. In view of the above, the legal acts below are discussed beyond the scope of the eFTI in order to better convey the overall picture of the current situation.
99. Such an approach should provide a better understanding of the common elements and differences between the different modes of transport, which in turn will contribute to a better understanding of the challenges that will be faced in the promotion of automatic data transmission in the future.

3.1.1. A brief overview of international legal acts

3.1.1.1. Road transport

100. In road transport, the UN Convention on the Contract for the International Carriage of Goods by Road (CMR) is of central importance²⁶. CMR applies to every contract for the carriage of goods by road in vehicles for reward, when the place of taking over of the goods and the place designated for delivery, as specified in the contract, are situated in two different countries, of which at least one is a Contracting country. This is why the CMR regulation is carrying the most importance when it comes to accompanying documents. In 2016, Estonia acceded to the Additional Protocol to the UN Convention on the Contract for the International Carriage of Goods by Road (Additional Protocol to the CMR)²⁷, supplementing the CMR with the option of compiling a consignment note by means of electronic data storage and processing. In accordance with Article 2, paragraph 2, of the Additional Protocol to the CMR, an electronic consignment note that complies with the provisions of this Protocol shall be considered to be equivalent to the consignment note referred to in the Convention and shall therefore have the same evidentiary value.
101. In road transport, the European Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR), which must be complied with in the transport of dangerous goods, is also of importance beside the CMR. The person who orders the carriage must know the exact classification of the dangerous goods, on the basis of which the conditions of transport are determined and the goods are defined either as dangerous goods or particularly dangerous goods. The consignor of dangerous goods must pack the goods in accordance with the requirements and provide the carrier with a consignment note and a written safety instructions for the driver.
102. For the implementation of eFTI, both the CMR and the ADR are important.

²⁶ Additional Protocol to the Convention on the Contract for the International Carriage of Goods by Road (CMR) Concerning the Electronic Consignment Note. Government of the Republic international agreement 20.2.2008. — RT II, 8.11.2016, 1.

²⁷ Ibid.

3.1.1.2. Rail transport

103. For Estonian rail transport, the Agreement on International Railway Freight Communications, or SMGS Convention (**SMGS**²⁸), which broadly covers the former Soviet Union republics and countries in the Far East (Eastern Europe and Asia), holds the most significance. The carriage of goods by rail in Western Europe is regulated by the Convention concerning International Carriage by Rail (**COTIF**²⁹), more precisely by its Appendix 'Uniform Rules Concerning the Contract of International Carriage of Goods by Rail' (**CIM UR**³⁰). As goods are being also transported by rail from the COTIF area to the SMGS-regulated area and vice versa or in countries which have acceded to both Conventions, the CIM/SMGS consignment note has been established for this purpose.³¹ Both conventions also regulate the transport of dangerous goods (in the case of COTIF, Appendix C or RID).³²
104. In terms of implementing the eFTI Regulation, only COTIF (Appendices CIM UR and RID) is relevant. In practice, in Estonia foremost SMGS is actually implemented, since the Estonian railway system has historically been linked to SMGS. However, it is also possible for the parties to agree on the application of COTIFI if the transport is linked to Western Europe, where COTIF applies.

3.1.1.3. Air transport

105. In air transport, the Convention for the Unification of Certain Rules for International Carriage by Air (**Montreal Convention**)³³ and the Convention on International Civil Aviation (**Chicago Convention and Annex 19 thereto**)³⁴ are of central importance. In addition to these, agreements developed by the International Air Transport Association³⁵ (**IATA**),³⁶ which by their nature are not conventions, but are nevertheless widely respected and implemented internationally, have an important significance in practice. IATA Resolutions are, in essence, agreements of international trade associations, with which market participants in the aviation sector may join voluntarily. One such IATA agreement is IATA Resolution 672. Form of multilateral e-Air Waybill Agreement).³⁷ For the Parties to the Montreal Convention, the Convention takes precedence over all rules applicable to international air transport³⁸.
106. The following should be explained with regard to the Chicago Convention. The Convention regulates the basic principles of international aviation (from requirements for airports to documents accompanying goods) with a focus on the organisation and servicing of air traffic. The Montreal Convention regulates more specifically matters relating to air transport. Under the Chicago Convention the International Civil Aviation Organization (ICAO) was established with the primary purpose of developing principles for the development of international air traffic and coordinating and directing technical developments for the purpose of general air traffic safety. The ICAO undoubtedly plays the most important role in the development of International Standards and Recommended Practices (SARPs), which are published in Annex 19 to the Convention. The Annexes concerned are regularly reviewed and amended and supplemented as necessary. Annexes to the Convention are not available for free.

²⁸ Agreement on International Railway Freight Communications (SMGS). Government of the Republic international agreement. — RT II, 9.9.2022, 1.

²⁹ Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 in the version of the Modification of Protocol of 3 June 1999 [1.7.2015]. - RT II, 2.11.2022, 2.

³⁰ Uniform Rules Concerning the Contract of International Carriage of Goods by Rail (CIM UR – Appendix B to COTIF) [1 May 2016]. Government of the Republic international agreement. — RT II, 2.11.2022, 5.

³¹ Agreement on International Carriage of Goods by Rail (SMGS) [text as at 1 July 2020], Annex 6 - CIM/SMGS consignment note manual. [Link](#)

³² Regulation concerning the International Carriage of Dangerous Goods by Rail (RID — Appendix C to the Convention (COTIF). Government of the Republic international agreement. — RT II, 8.2.2023, 3.

³³ Convention for the Unification of Certain Rules for International Carriage by Air (Montreal Convention). Riigikogu international agreement 28.5.1999. — RT II, 2003, 7, 24. In general, it can be said that the Montreal Convention replaced the existing system established under the 1929 Warsaw Convention with regard to air transport, which is why the Montreal Convention is of central importance today.

³⁴ Convention on International Civil Aviation (Chicago Convention). Supreme Council international agreement 7.12.1944. - RT II 2000, 2, 12.

³⁵ International Air Transport Association.

³⁶ Official website of IATA. [Link](#)

³⁷ IATA Resolution 672. Form of multilateral E-Air Waybill Agreement. [Link](#)

³⁸ Article 55 of the Montreal Convention.

107. Annex 18 to the Chicago Convention (Annex 18: The Safe Transport of Dangerous Goods by Air) regulates the transport of hazardous goods by air.
108. In Europe, the standards of the European Organisation for the Safety of Air Navigation (**EUROCONTROL**)³⁹ are also relevant.
109. From the perspective of implementing eFTI, in fact, all of the above documents are relevant.

3.1.1.4. Maritime transport (outside the scope of the eFTI)

110. The scope of the eFTI Regulation concerns the transport of dangerous goods in inland waterways, but not international marine shipping. However, this does not mean that, also in the case of maritime transport, Member States could not create interfaces for the electronic availability of freight transport information within the framework of the eFTI Regulation. Maritime and water transport is characterised by a multiplicity of international agreements but little or uneven coherence. The following international agreements should be highlighted: the Budapest Convention (**CMNI**)⁴⁰, the Hague Rules (1924)⁴¹, the Hague–Visby Rules (1968)⁴², the Hamburg Rules (1978),⁴³ the Rotterdam Rules (2008)⁴⁴ and the conventions of the International Maritime Organization (see below). The Budapest Convention differs from the others in that it only regulates transport on inland waterways. From the perspective of the eFTI, the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (**ADN**)⁴⁵ bears significance.
111. In practice, the Hague-Visby Rules (1968)⁴⁶, which in terms of content are the updated version of the Hague Rules (1924), have the most importance in Europe and the Baltic Sea region. The ratification of the Hamburg Rules (1978) and the Rotterdam Rules (2008), drawn up at a later date, have not been very successful internationally and therefore have no particular significance, at least at the present time. The reason has been the reluctance of States to change the proportions of risks and liability of the carrier and the shipper to the detriment of the carrier⁴⁷. This is also the reason why Estonia has not been in a hurry to ratify them, because this would create a situation in which Estonia would place its carriers in an unequal position compared to neighbouring countries (eg Scandinavian countries). In its regulation of maritime transport, Estonia has largely followed the example of Sweden and Finland, who in turn have relied on the Hague–Visby Rules. The **Merchant Shipping Act** in force in Estonia also complies with the Hague–Visby principles, including a version that has entered into force in 2023, which updated the regulation of the Act and brought it more precisely into line with the Hague–Visby Rules. Thus, it can be said that *de facto* Estonia also largely follows the Hague–Visby Rules.⁴⁸
112. The Hague-Visby Rules is a convention dealing with the most important issues relating to the regulation of contracts of carriage by sea. These are generally accepted principles for the regulation of maritime transport. In particular, the Hague-Visby regulation deals with the differences in carrier liability. The

³⁹Eurocontrol website. European Organisation for the Safety of Air Navigation. [Link](#)

⁴⁰ Budapest Convention on the Contract for the Carriage of Goods by Inland Waterway (CMNI). [Link](#)

⁴¹ International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading (1924). This Convention has been signed by the President of Estonia, but has not been ratified by the Riigikogu. [Link](#)

⁴² Protocol amending the International Convention for the unification of certain rules of law relating to bills of lading (1968). ⁴²In Estonian International Convention for the unification of certain rules of law relating to bills of lading. [Link](#)

⁴³ United Nations Convention on the Carriage of Goods by Sea (1978). [Link](#)

⁴⁴ Rotterdam Rules, the Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea, adopted in December 2008. [Link](#)

⁴⁵European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN). Geneva Diplomatic Conference 2000. [Link](#)

⁴⁶Merchant Shipping Act 994 SE. Explanatory memorandum. [Link](#)

⁴⁷See, eg, 994 SE explanatory memorandum. [Link](#)

⁴⁸ See, eg, Explanatory Memorandum 994 SE [Link](#) and Act to amend the Merchant Shipping Act and the Maritime Safety Act 741 SE, Explanatory Memorandum, page 5. [Link](#)

reference to the bill of lading in the title of the Convention follows from the fact that the Convention applies only if a bill of lading has been issued for the goods being transported.⁴⁹⁵⁰

113. Due to the international nature of maritime transport and the very high risk hazardous effects, the conventions and guidelines of the IMO (International Maritime Organization) are also important:
- Convention on Facilitation of International Maritime Traffic (FAL), 1965), which regulates, inter alia, the content of cargo documents, such as cargo declarations⁵¹;
 - International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended⁵²;
 - International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto and by the Protocol of 1997 (MARPOL)⁵³;
 - IMDG Code or International Maritime Dangerous Goods Code. These are advisory rules which are regularly updated by the IMO. The IMDG Code takes into account SOLAS and MARPOL regulations⁵⁴.
114. For the implementation of the eFTI Regulation, the Budapest Convention (CMNI) and ADN on inland waterway transport are also relevant in other countries. As inland waterway transport regulated by these Conventions does not take place in Estonia, legal acts in the field of water and maritime transport does not require direct attention when implementing eFTI in Estonia. However, in the field of maritime transport, Estonia should also strive to ensure that data is exchanged under common principles. Therefore, the legal acts on maritime transport are also discussed below together with the legislation of other modes of transport.

3.1.2. Overview of EU legal acts within the scope of eFTI

3.1.2.1. EEC Council Regulation No 11⁵⁵

115. The regulation regulates the abolition of discrimination in transport rates and conditions, in implementation of Article 79 (3) of the Treaty establishing the European Economic Community There is no direct impact on Estonian national law.

3.1.2.2. Directive 92/106/EEC on common rules for certain types of combined transport⁵⁶

116. Directive 92/106/EEC aims to promote the development of combined transport. Combined transport is considered as an alternative to road transport. Article 6(3) of the Treaty establishing the European Economic Community also provides for railway loading and unloading stations linked to a section of railway or ports of loading and unloading on inland waterways connected to a section of inland waterway or loading and unloading stations at sea, ports of unloading linked to the maritime section of the journey. These particulars shall be recorded before the carriage is executed and are stamped for approval by the railway or port authorities at the railway stations concerned or on inland waterways or seaports where that part of the journey is carried out by rail or inland waterways or by sea.

⁴⁹ The presentation of a bill of lading (document of title) makes it possible to dispose of the carried goods without transferring direct possession of the goods. This is particularly relevant in situations where maritime transport is taking a long time and it is necessary to transfer the goods already during the carriage. If a bill of lading has been issued, the rightful holder of the bill of lading has the right to give instructions and dispose of the goods.

⁵⁰ 994 SE. Explanatory memorandum. [Link](#)

⁵¹ Convention on Facilitation of International Maritime Traffic. Government of the Republic international agreement 9.4.1965. — RT II, 2002, 3, 6.

⁵² International Convention for the Safety of Life at Sea. Government of the Republic international agreement 1.11.1974. — RT II 2001, 22, 117.

⁵³ International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto Government of the Republic international agreement 17.2.1978. — RT II 2009, 19, 48.

⁵⁴ International Maritime Dangerous Goods Code (IMDG) [Link](#)

⁵⁵ EEC Council Regulation No 11. - L 387/23, 19.11.2020. [Link](#)

⁵⁶ Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States. – (OJ L 368, 17.12.1992, p 38–42).

3.1.2.3. Regulation (EC) No 1072/2009 of the European Parliament and of the Council on common rules for access to the international road haulage market⁵⁷

117. The regulation shall apply to the international carriage of goods by road for hire or reward for journeys carried out within the territory of the Community. Article 8(3) of that regulation states that national road haulage services carried out in the host Member State by a non-resident haulier shall only be deemed to conform with this Regulation if the haulier can produce clear evidence of the incoming international carriage and of each consecutive cabotage operation carried out. Evidence shall comprise the following details for each operation: (a) the name, address and signature of the sender; (b) the name, address and signature of the haulier; (c) the name and address of the consignee as well as his signature and the date of delivery once the goods have been delivered; (d) the place and the date of taking over of the goods and the place designated for delivery; (e) the description in common use of the nature of the goods and the method of packing, and, in the case of dangerous goods, their generally recognised description, as well as the number of packages and their special marks and numbers; (f) the gross mass of the goods or their quantity otherwise expressed; (g) the number plates of the motor vehicle and trailer.

3.1.2.4. Regulation (EC) No 1013/2006 of the European Parliament and of the Council on shipments of waste⁵⁸

118. The main and predominant objective and component of this Regulation is the protection of the environment. The Regulation is without prejudice to the inspections carried out by customs offices set out in the relevant provisions of EU legal acts. Article 16(c) of Regulation 1013/2006 sets out the documents to accompany each transport:

- the notifier shall retain a copy of the movement document.
- The movement document and copies of the notification document containing the written consents and the conditions of the competent authorities concerned shall accompany each transport. The movement document shall be retained by the facility which receives the waste.

119. Article 18(1) of the Regulation sets out that waste intended to be shipped are subject to the procedural requirements set out in Annex VII to the Regulation.

3.1.2.5. Directive 2008/68/EC of the European Parliament and of the Council on the inland transport of dangerous goods⁵⁹

120. The directive sets out common rules for the safe and secure transport of dangerous goods within and between the EU Member States — either by road (ADR), rail (RID) or inland waterway (ADN). In addition, it also covers aspects such as loading and unloading, transshipment from one mode of transport to another and stops during transport. It extends the application of international rules to the national transport of dangerous goods.

3.1.2.6. Commission Implementing Regulation (EU) 2015/1998 laying down detailed measures for the implementation of the common basic standards on aviation security⁶⁰

121. It is an implementing Regulation to Regulation No 300/2008 of the European Parliament and of the Council⁶¹, which aims to lay down common rules and common basic standards for aviation security and to establish systems for monitoring their compliance. The implementing regulation lays down detailed

⁵⁷Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market. - OJ L 300, 14.11.2009, p. 72–87.

⁵⁸ Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste. - OJ L 190, 12.7.2006, p. 1–98.

⁵⁹Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods. — OJ L 260, 30.9.2008, p. 13–59.

⁶⁰Commission Implementing Regulation (EU) 2015/1998 of 5 November 2015 laying down detailed measures for the implementation of the common basic standards on aviation security. — OJ L 299, 14.11.2015, p. 1–142.

⁶¹ Regulation (EC) No 300/2008 of the European Parliament and of the Council of 11 March 2008 on common rules in the field of civil aviation security and repealing Regulation (EC) No 2320/2002. — OJ L 97, 9.4.2008, p. 72–84.

measures for the implementation of the common basic aviation security standards, including the requirements for freight transport information.

3.1.3. Overview of the most important national legal acts

3.1.3.1. Road transport

122. The most important national legal acts in the field of road transport are the **Road Transport Act, Road Traffic Act, Forest Act** and **Waste Act**. The Law of Obligations Act applies to domestic transport, but only to the relationship between the parties to the contract of carriage, because public obligations are established by the Road Transport Act⁶².
123. The Road Transport Act⁶³ establishes the grounds for road transport, the duties of road haulage undertakings and senders of goods, requirements for cargo safety, requirements for road transport drivers, liability for infringement of the requirements, and the organisation of state supervision.
124. Pursuant to subsection 3 of § 29 of the Road Transport Act, upon the carriage of goods for hire or reward, the driver must carry with them a document, in a format which can be reproduced in writing, which certifies the conclusion of a carriage contract (carriage document) and is prepared by the sender of goods or the forwarding agent. No separate form has been established for the carriage document. This can be a CMR consignment note as set out by CMR, a consignment note arising from the Law of Obligations Act (§ 775), a conveyance document for timber and other similar documents. The content requirements for carriage documents arise from subsection 4 of § 29 of the Road Transport Act, according to which a carriage document must include at least the following data:
- the name and address of the sender of goods;
 - the name and address of an Estonian or foreign carrier;
 - the name and address of the recipient of the goods;
 - the point where the goods are loaded and date of loading;
 - the point where the goods are unloaded;
 - the general name of the goods;
 - the gross mass of the goods or, if the gross mass cannot be determined, the quantity of the goods
 - in other units of measurement.
125. Upon using electronic carriage documents, the following data must be added to the data provided above:
- the first name and surname and personal identification code or, upon absence thereof, date of birth of the driver engaging the carriage of goods while being at the disposal of an Estonian carrier;
 - registration numbers of the motor vehicle and its trailer.
126. Requirements for carriage of dangerous goods have been established separately. During carriage of dangerous goods, the driver must carry (subsection 10 of § 35 of the Road Transport Act):
- the carriage documents whose descriptive part indicates the ADR-compliant name, UN number, danger label number and the packaging group, unless otherwise provided for in the ADR requirements;
 - ADR-compliant written instructions for conduct in the case of an accident and an emergency stop;
 - ADR training certificate;
 - certificate of approval for vehicles carrying certain dangerous goods, where required.
127. The **Road Traffic Act**⁶⁴ sets out traffic management on the roads of Estonia, traffic rules, the principles and basic requirements for ensuring road traffic safety, the duties of the owner of the road, the conditions and rates of financing roads and paying road tolls, the rules for registration of and the requirements for motor vehicles, trams, their trailers and off-road vehicles, the requirements for granting the right to drive, the working and rest time of drivers of motor vehicles, management and maintenance of the motor register, and liability for violation of the traffic rules. The Road Traffic Act also regulates the maintenance of the

⁶² P. Varul et al. Võlaõigusseadus IV. Kommenteeritud väljaanne. Tallinn 2020, p 231.

⁶³ Road Transport Act – RT I, 22.12.2023, 7.

⁶⁴ Road Traffic Act. - RT I, 22.12.2023, 4.

traffic supervision information system and sets out the data to be entered there, including data on the documents required for carriage.

128. On the basis of the Road Traffic Act, the following regulations have been established:

- Minister of Defence Regulation 'Procedure for carriage of passengers and cargo in the Estonian Defence Forces and the Estonian Defence League', which sets out the requirements for the carriage of cargo in a vehicle owned by the Defence Forces and the Defence League and the ⁶⁵ content and form requirements of the waybill.
- Minister of Economic Affairs and Infrastructure Regulation 'Conditions of special carriage, the procedure for special carriage, issue of special permits as well as compensation of costs caused to the road owner, the fee for reviewing a special permit and the rates of the special fee'⁶⁶, which sets out the conditions for special carriage, including the requirements for the waybill⁶⁷.
- Minister of Economic Affairs and Communications Regulation 'Statutes of the Traffic Supervision Information System'⁶⁸, which sets out the data to be entered in the information system, the principles of data processing, the procedure for the use, disclosure and issuance of data.

129. The **Forest Act**⁶⁹ establishes a special regulation for documenting the transport of timber. Pursuant to subsection 10 of § 37 of the Forest Act, the conveyance document is a document certifying the assortment, quantity and ownership of timber. Upon transportation of timber, the transporter of timber must carry a physical conveyance document or have an electronic conveyance document, unless carriage is performed by the owner of the timber and the owner has the documents that certify the lawful of the possession of timber (subsection 10 of § 37 of the Forest Act).

130. The Forest Act establishes Minister of the Environment Regulation No 84 'The requirements for the transportation of timber, the deed of delivery and receipt of timber, the conveyance document and the form of the notice to be submitted to the Estonian Tax and Customs Board concerning the cutting right or timber sold or purchased' (**Regulation No 84**)⁷⁰. Regulation No 84 lays down, inter alia, the requirements prescribed to the conveyance document for timber. Regulation No 84 also regulates the use of electronic conveyance documents. Pursuant to subsection 4¹ of § 5 of Regulation No 84, if the rules on the transport of timber, the electronic conveyance document must be available and, if necessary, printed out to the owner, recipient, and carrier of the timber material. Pursuant to the second sentence of the same subsection, the electronic conveyance document shall be accessible to the national supervisory authority via the data interchange layer of the national information systems, the X-tee.

131. The **Waste Act** regulates:⁷¹

- transport of hazardous waste: Subsection 1 of § 64 of the Waste Act prescribes requirements for consignment note for hazardous waste which contains information concerning the type, composition, quantity and main properties of the hazardous waste transferred for handling and the producer of such waste, the person who transfers the waste for handling, the transport operator and the consignee. Pursuant to subsection 2 of § 64 of the Waste Act, a consignment note shall be prepared for the transport of hazardous waste before the start of the transport as a digital document in the database of consignment notes for hazardous waste. The database of consignment notes for hazardous waste has been established on the basis of an authorising provision set out in subsection 2³ of § 64 of the Waste Act by the Minister of the Environment Regulation No 77 'Establishment of a

⁶⁵ Procedure for carriage of passengers and cargo in the Estonian Defence Forces and the Estonian Defence League. Minister of Defence Regulation 19.12.2016 No 26 – RT I, 20.6.2023, 10.

⁶⁶ Conditions of special carriage, the procedure for special carriage, issue of special permits as well as compensation of costs caused to the road owner, the fee for reviewing a special permit and the rates of the special fee [*Eriveo tingimused ning eriveo teostamise ja erilubade väljaandmise kord ning tee omanikule tekitatud kulutuste hüvitamise, eriloa menettlustasu ja eritasu määrad*]. Minister of Economic Affairs and Communications Regulation 4.9.2015 No 114. – RT I, 1.6.2022, 3.

⁶⁷ Divisible cargo may be carried by way of special carriage if, in addition to complying with the requirements set out in subsection 8 of § 34¹ of the Road Traffic Act, an electronic waybill or other electronic consignment note is drawn up.

⁶⁸ Statutes of the Traffic Supervision Information System. Minister of Economic Affairs and Communications Regulation 28.3.2013 No 24. – RT I, 5.7.2023, 282.

⁶⁹ Forest Act - RT I, 22.9.2023, 3.

⁷⁰ The requirements for the transportation of timber, the deed of delivery and receipt of timber, the conveyance document and the form of the notice to be submitted to the Estonian Tax and Customs Board concerning the cutting right or timber sold or purchased. Minister of the Environment Regulation 21.12.2006 No 84 – RT I, 15.12.2017, 16.

⁷¹ Waste Act. – RT I, 17.3.2023, 37.

database of consignment notes for hazardous waste and the statutes of the database' (**Regulation No 77**) of 27 December 2016.

- transboundary movement of waste: Pursuant to subsection 1 of § 108 of the Waste Act, transboundary movement of waste shall be in accordance with international agreements of the Republic of Estonia which have entered into force and pursuant to the procedure provided in Regulation (EC) No 1013/2006 of the European Parliament and of the Council. Pursuant to subsection 2 of § 108 of the Waste Act, hazardous waste and waste regulated by international agreements may be imported to, exported from and passed in transit through the territory of the Republic of Estonia on the basis of a permit for transboundary movement of waste (hereinafter transport permit) issued pursuant to the procedure provided for in Regulation 1013/2006/EC of the European Parliament and of the Council. The application for permits for transboundary movement of waste and the preparation of consignment notes is carried out through the environmental decisions information system KOTKAS in accordance with clause 8⁹ of subsection 2 of § 3 of the Minister of the Environment Regulation No 20 'Establishment of the Environmental Decisions Information System and the Statutes for Maintaining the Database' [*Keskkonnaotsuste infosüsteemi asutamise ja andmekogu pidamise põhimäärus*] (**Regulation No 20**).

132. It is important to note that state supervision over waste and compliance with the requirements of Regulation No 1013/2006 is exercised respectively by the Environmental Board and ETCB on the basis of § 119 of the Waste Act.

3.1.3.2. Rail transport

133. The most important national legal act is the **Railways Act**⁷², which is a basic law regulating the railway sector as a whole in Estonia on the basis of which a number of other regulations in this sector have been established. The Railways Act governs, among other things, the state supervision over railway traffic, maintenance of railway infrastructure and railway vehicles, building of railway civil engineering works and construction, maintenance and repair of railway vehicles⁷³. Pursuant to § 83 of the Railways Act, a railway network statement must be prepared for each timetable period which sets out broadly the conditions for accessing railway infrastructure⁷⁴. According to clause 3.2.2.2 sub-clause 8 of the railway network statement, international carriage of passengers and goods takes place on the territory of Estonia in accordance with international agreements⁷⁵. Thus, the Railways Act itself does not regulate the content of the waybill, as the content and templates of the waybill are established by international conventions, i.e. COTIF and SMGS. Pursuant to subsection 2 of § 111 of the Railways Act, rail transport of hazardous goods shall be carried out in adherence to the requirements of Appendix C (RID) to the COTIF or the requirements of the SMGS, depending on which is applicable in the given situation.
134. The Law of Obligations Act also applies to domestic rail transport, but in practice it has no real importance due to the minimum volume of domestic transport. The Law of Obligations Act regulates the rights and obligations of the contracting parties, not the public law requirements applicable to the parties.

3.1.3.3. Air transport

135. The most important national legal act is the Aviation Act⁷⁶ The Act regulates, among other things, the rules applicable to air transport. The Aviation Act does not regulate international carriage, and couldn't, as it would be outside the territorial jurisdiction of the legislator. Pursuant to subsection 2 of § 2 of the Aviation Act, the provisions of the Aviation Act are extended to:

- Estonian and foreign aircraft in Estonian airspace;

⁷² Railways Act. - RT I, 30.6.2023, 62.

⁷³ Clause 5 of subsection 1 of § 1 of the Railways Act

⁷⁴ Railway network statements. Estonian Railways. [Link](#)

⁷⁵ AS Eesti Raudtee railway network statement for the 2023/2024 traffic schedule period, 10.12.2023 until 7.12.2024 point 3.2.2.2. sub 8 [Link](#)

⁷⁶ Aviation Act. - RT I, 30.6.2023, 32.

- Estonian aircraft outside Estonian airspace to the extent and in accordance with the procedure provided for in international agreements.
136. Pursuant to the Regulation⁷⁷ established on the basis of subsection 1 of § 4 of the Aviation Act, in the use of Estonian airspace and the provision of air navigation services in Tallinn Flight Information Region, the 1944 Chicago Convention on International Civil Aviation, its Annexes and other standards and requirements of the International Civil Aviation Organization (ICAO) and the European Organisation for the Safety of Air Navigation (EUROCONTROL) and Estonian legal acts are being adhered to.
 137. In the Aviation Act, air transport is governed by § 53. Its subsection 1 stipulates that the Convention for the Unification of Certain Rules for International Carriage by Air (ie, the Montreal Convention) applies to domestic air transport. The carriage of dangerous goods is regulated by § 54 of the Aviation Act, according to which the transport of hazardous substances by civil aircraft is conducted on the basis of written permission from the Transport Administration in accordance with the requirements of the 1944 Chicago Convention on International Civil Aviation and the Annexes thereto. Specifically, the carriage of dangerous goods is regulated by Annex 18 to the Chicago Convention.
 138. For both international and domestic air transport, international conventions and practices are most generally adhered to. In doing so, the legislator has refrained from introducing specific conditions and requirements under international law into the Aviation Act. With the amendments that entered into force in 2008, the reference in subsection 1 of § 53 of the Aviation Act to the Convention for the Unification of certain rules relating to international carriage by air (**Warsaw Convention**) was replaced by a reference to the Convention for the Unification of Certain Rules for International Carriage by Air (**Montreal Convention**) with the explanation that the rules provided for in the Montreal Convention supersede those contained in the Warsaw Convention regulations and their subsequent amendments. In doing so, the authorising provision provided for in subsection 2 of § 53 of the Aviation Act and the Government of the Republic Regulation No 398 'Approval of the Rules for Air Carriage' [*Õhuvედude eeskirja kinnitamine*] established on the basis thereof and containing the requirements for carriage documents were repealed. Pursuant to the explanatory memorandum, the Montreal Convention stipulates the requirements for carriage documents. Therefore, it is not necessary to duplicate them in a separate regulation.⁷⁸
 139. The Law of Obligations Act applies to air transport only to the extent that is not regulated by international conventions. In practice, in the case of air transport, the significance of the Law of Obligations Act is rather non-existent.

3.1.3.4. Maritime transport (outside the scope of the eFTI)

140. It is appropriate to reiterate here that international maritime transport falls outside the scope of the eFTI Regulation, but since the objective is to promote the exchange of digitised data in all modes of transport, it is therefore appropriate to look at the relevant maritime legal acts for the sake of the overall picture and future perspective.
141. The most important legal act is the Merchant Shipping Act⁷⁹. With regard to freight transport documentation, Chapter 2 on carriage of goods is most important. A contract for the carriage of cargo is a contract for carriage whereby a person (the carrier) undertakes to another person (the shipper) to carry the goods delivered to the carrier by the shipper for carriage by sea to the port of destination and to deliver the goods there to a consignee entitled to receive the goods, who is not a party to the contract for the carriage of cargo. The shipper undertakes to pay freight for the carriage to the carrier (hereinafter the freight) (subsection 1 of § 4 of the Merchant Shipping Act).
142. Matters regarding freight transport documentation is regulated by subsection 1 of § 10 of the Merchant Shipping Act, according to which before the goods are delivered to the carrier, the shipper shall place the documents and information necessary for the loading and unloading of the goods and for conducting other formalities related to carriage, in particular for customs clearance, at the disposal of the carrier. The

⁷⁷ The procedure for the use of Estonian airspace and the Tallinn Flight Information Region and for the provision of air navigation services [*Eesti õhuruumi kasutamine ja lennuliikluse teenindamine Tallinna lennuinfoiirkonnas*]. § 2 of Regulation of the Government of the Republic 18.7.2000 No 240. – RT I, 5.7.2023, 231.

⁷⁸ Act to Amend the Aviation Act and the State Fee Act 330 SE. Explanatory memorandum to initiation. [Link](#)

⁷⁹ Merchant Shipping Act. - RT I, 17.3.2023, 47.

documents and information necessary for the loading and unloading of goods are in particular the bill of lading (§ 38 of the Merchant Shipping Act) and the sea waybill (§ 47 of the Merchant Shipping Act). We explain the difference between these two documents as follows:

A **bill of lading** is a document of title (proof of ownership of goods) in which the carrier recognises that the goods to be carried have been received and undertakes to carry the received goods to their port of destination in the manner described in the bill of lading and to deliver the goods there to the person who submits the bill of lading and is entitled to receive the goods pursuant to the bill of lading. The bill of lading is important, for example, in situations where it is necessary to transfer the goods during maritime transport, since it is common for the owner to change several times during transport. Pursuant to subsection 5 of § 38 of the Merchant Shipping Act, an electronic bill of lading is also possible, which is considered to be equivalent to a standard bill of lading (ie signed on paper), provided that the integrity of such document is ensured at all times and that the use of an electronic bill of lading has been agreed between the carrier and the shipper. The content requirements for the bill of lading are set out in subsection 1 of § 40 of the Merchant Shipping Act. Pursuant to subsection 1 of § 42 of the Merchant Shipping Act, the information in the bill of lading is deemed to be correct until the opposite is proven.

A **sea waybill** is a certificate of receipt of the goods by the carrier (not a document proving ownership of the goods), containing the information specified in subsection 1 of § 41 of the Merchant Shipping Act.⁸⁰ In the case of a sea waybill, subsection 1 of § 42 of the Merchant Shipping Act is adhered to, ie the correctness of the information given in the sea waybill is assumed. When distinguishing a sea waybill from a bill of lading, one must consider in particular that a sea waybill does not confer on its holder any additional rights with regard to the disposal of the goods.⁸¹ In the case of a carriage of shorter duration, where, for example, there is no need to change the owner of the goods during carriage and there are no issues with obtaining financial resources from banks, there is no real need for a bill of lading, and in such a situation a sea waybill is applied.

143. It is important to bear in mind that if, in the case of a bill of lading, its electronic form is considered equal to the written form, this does not apply to a sea waybill. It remains unclear what has been the reason for such a distinction. Obviously, the legislator's intention could not have been to restrict the circulation of an electronic sea waybill, so it would be justified to supplement the law in this respect, ie to consider the electronic sea waybill to be equivalent to a written sea waybill.
144. With regard to the content requirements of a bill of lading (which, to a significant extent, also apply to the sea waybill), it should be noted that, for example, while the Aviation Act has opted not to list them in detail, they are listed in the Merchant Shipping Act. The different approach is due to the fact that, unlike international conventions in the field of aviation, Estonia has not acceded to the Hague–Visby Rules, which are most important in the European and Baltic Sea regions, and there is no legal basis for their direct application. The Hague–Visby Rules have been bound to Estonian law by incorporating relevant requirements into the Merchant Shipping Act.⁸²
145. For the sake of clarity, it is important to note that, unlike other modes of transport, the contract of carriage provisions set out in the Law of Obligations Act (subsection 3 of § 774 of the Law of Obligations Act) do not apply to maritime transport. The exception is combined carriage (transport by different vehicles by sea, air or land), in which the contract of carriage regulation set out in the Law of Obligations Act applies to a certain extent (subsection 3 of § 4 of the Merchant Shipping Act).
146. With regard to electronic data exchange, it should be highlighted that in the maritime sector Estonia has introduced the Electronic Maritime Document Exchange (EMDE)⁸³, the purpose of which is to facilitate the transmission, collection and storage of information related to maritime transport. This is not an e-

⁸⁰ In the case of a sea waybill, it is not required that it contains the information specified in clause 3 of subsection 1 of § 40 of the Merchant Shipping Act, ie the type of goods received by the carrier.

⁸¹ Lichmann, E. Electronic bill of lading and sea waybill. Thesis. Estonian Maritime Academy of Tallinn University of Technology. Tallinn 2016. A sea waybill is used more for container and multimodal shipping. The main reason is that in the case of short trips, the original paper bill of lading does not reach the consignee on time. If the goods do not have to be resold or if the original bill of lading is not needed to solve financial issues, then often a sea waybill is used instead of a bill of lading to avoid this problem.

⁸² See, eg, the Explanatory Memorandum to the Merchant Shipping Act [Link](#) and the Explanatory Memorandum to the Act to amend the Merchant Shipping Act and the Maritime Safety Act (page 5). [Link](#)

⁸³ EMDE website [Link](#),

environment only specific to Estonia but is based on EU directives.⁸⁴ Domestically, the EMDE is based on the Maritime Safety Act⁸⁵ and Minister of Economic Affairs and Communications Regulation No 39 ‘Statutes of the Electronic Maritime Document Exchange’ of 12 June 2013⁸⁶. Other Member States apply similar electronic environments through which the data of the Member States finally reaches SafeSeaNet, the EU central maritime safety information exchange system. EMDE is interfaced with SafeSeaNet.

147. It is an exchange of information between the state and economic operators, not between economic operators themselves. The data in the database are public in respect of the information for which no restrictions on access apply. The data provider has the right of access to the data in respect of the data relating to them. The exact composition of the data to be entered into the EMDE is determined by various regulations and the corresponding list is provided in § 4 of the Statute of the Electronic Maritime Information System⁸⁷.
148. In order to electronically submit data and documents to the database and to have the right to access the database, a person or body must submit a request to the processor of the database. Data and documents may be entered into or created in the database and procedural notes made by a person who has the appropriate rights and whose identity has been verified. Authentication is carried out on the basis of a certificate allowing digital identification entered on the identity card or on the basis of a password.
149. EMDE uses automated data processing and database data is stored in digital form. The chief processor of the database is the Ministry of Climate and the authorised processor the Transport Administration. The database is maintained in Estonian and English.
150. Among other, information contained in the bill of lading and the sea waybill must be entered in the EMDE⁸⁸. So it can be said that the state already has the readiness to receive information related to maritime transport electronically. In practice, however, EMDE is primarily concerned with maritime safety and security, in the context of which certain information on the goods transported is also communicated, but the transmission of cargo-related information is not its primary purpose.
151. It should be noted that at the moment a new version of the EMDE with additional options is being developed, which, according to all assumptions, should be implemented in 2025⁸⁹.

⁸⁴ Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC. - OJ L 283, 29.10.2010, p. 1–10.

Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC. - OJ L 208, 5.8.2002, p. 10–27.

Commission Directive 2014/100/EU of 28 October 2014 amending Directive 2002/59/EC of the European Parliament and of the Council establishing a Community vessel traffic monitoring and information system. - OJ L 308, 29.10.2014, p. 82–87.

Directive 2009/17/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system. - OJ L 131, 28.5.2009, p. 101–113.

⁸⁵ Maritime Safety Act. - RT I, 30.12.2023, 3.

⁸⁶ Statute of the Electronic Maritime Information System. Minister of Economic Affairs and Communications Regulation 12.6.2013 No 39. – RT I, 5.7.2023, 283.

⁸⁷ Statute of the Electronic Maritime Information System. Minister of Economic Affairs and Communications Regulation 12.6.2013 No 39. – RT I, 5.7.2023, 283.

⁸⁸ Clause 20 of subsection 1 of § 4 of Statute of the Electronic Maritime Information System and the procedure for vessels and recreational craft to enter and exit the internal sea, ports, and Estonian waters of transboundary water bodies. Clauses 6 and 7 of subsection 1 of § 4 of Government of the Republic Regulation 19.5.2004 No 194. – RT I, 21.7.2022, 6.

⁸⁹ Regulation (EU) 2019/1239 of the European Parliament and of the Council of 20 June 2019 establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU. - OJ L 198, 25.7.2019, p. 64–87;

Commission Delegated Regulation (EU) 2023/205 of 7 November 2022 supplementing Regulation (EU) 2019/1239 of the European Parliament and of the Council as regards the establishment of the European Maritime Single Window environment data set and amending its Annex. - OJ L 33, 3.2.2023, p. 24–230;

Commission Implementing Regulation (EU) 2023/204 of 28 October 2022 laying down technical specifications, standards and procedures for the European Maritime Single Window environment pursuant to Regulation (EU) 2019/1239 of the European Parliament and of the Council. - OJ L 33, 03/02/2023, p. 1–23;

Communication from the Commission presenting the 2023 update of the Multi-Annual Implementation Plan for the establishment of a European Maritime Single Window environment. C/2023/100.

3.1.4. The relationship between international, EU and national law in the context of the eFTI

152. International law governs relations between states and other subjects of international law (intergovernmental organisations). Section 123 of the Constitution of the Republic of Estonia (the Constitution) provides for the possibility of applying international treaties in the field of public law ratified by the Riigikogu that are in compliance with the Constitution.⁹⁰ By ratifying an international treaty, the state expresses its consent to its binding nature, as a result of which the international treaty becomes part of the Estonian legal order and has priority over Estonian laws or other acts (except the Constitution) pursuant to subsection 1 of § 123 of the Constitution.⁹¹ The transport sector is governed by a number of international agreements, which are outlined above in section (3.1.1). Estonia has acceded to, or ratified, a number of the aforementioned Conventions, as a result of which these Conventions have priority over Estonian laws or other acts (except the Constitution).⁹² However, if a legal provision resulting from the Convention is not applied, for example, on the ground that the provision is in conflict with the Constitution, international law is violated, as, according to article 26 of the Vienna Convention on the Law of Treaties, any treaty that has entered into force is binding upon the parties to it and must be performed.⁹³
153. In addition, the transport sector is also heavily regulated by European Union (EU) law, such as the Railway Interoperability Directive (2016/797) and the Waste Shipment Regulation (1013/2006). EU law can be considered as a branch of law that has grown out of international law, insofar as the EU itself is created by international treaties (Treaty on European Union (TEU), Treaty on the Functioning of the European Union (TFEU)). Upon Estonia's accession to the EU, the Constitution of the Republic of Estonia Amendment Act (Constitution Amendment Act) was adopted, pursuant to § 2 of which upon Estonia's membership in the European Union, the Constitution of the Republic of Estonia shall be applied taking into account the rights and obligations arising from the treaty of accession. Accordingly, the Constitution Amendment Act determines the relationship between Estonian and EU law, ie, on the one hand, the condition of Estonia's EU membership — compliance with the basic principles of the Constitution — and, on the other hand, the primacy of EU law.⁹⁴ In accordance with the principle of the primacy of EU law, national law must be waived in the event of a conflict with EU law.⁹⁵ However, the principle of EU primacy does not apply if EU law should be in conflict with the fundamental principles set out in the Constitution.⁹⁶ Upon conflict with the fundamental principles set out in the Constitution, EU law must not be applied.⁹⁷
154. As a result of the above, both international law at large and EU law take precedence over national law unless there is a conflict with the Constitution. The coexistence of international law and EU law is governed in particular by Article 351 of the TFEU. Under this provision, Member States are required to take all necessary measures to eliminate the conflict in the case of international agreements concluded before 1 January 1958 or before the date of accession which are not compatible with the TFEU Treaties. If a Member State concludes an international agreement after joining the EU, the concluded agreement must also be compatible with the EU Treaties. The EU Treaties do not stipulate how international law and EU secondary law, ie regulations and directives, relate to each other.⁹⁸ However, this is explained in the legal literature, according to which international law is considered to take precedence over secondary EU law.⁹⁹ In other words, in the event of a conflict of provisions of law, international law applies.
155. The eFTI Regulation, which applies to the regulatory information requirements arising from the various legal acts in the field of transport, creates a new technical solution for the fulfilment of existing requirements arising, inter alia, from international law. Consequently, there can be no conflict with international and EU law.

⁹⁰ L. Mälksoo, et al. (prepared by). Eesti Vabariigi põhiseadus. Kommenteeritud väljaanne. Fifth Edition. Tallinn: Juura 2020. Comments to § 121 and 123 of the Constitution, p 839 and 860.

⁹¹ Ibid, comments to § 123 of the Constitution, p 860.

⁹² Ibid. Comments to § 123 of the Constitution, p 860.

⁹³ Ibid. Comments to § 121 of the Constitution, p 843.

⁹⁴ L. Mälksoo, et al. (prepared by). Eesti Vabariigi põhiseadus. Kommenteeritud väljaanne. Fifth Edition. Tallinn: Juura 2020. Comments to § 2 of the Constitution Amendment Act, p 1140.

⁹⁵ Supreme Court en banc judgment 5-19-29, p 41.

⁹⁶ Ibid, p 41.

⁹⁷ Ibid, p 41.

⁹⁸ Ziegler, K. The Relationship between EU law and International law. University of Leicester 2015, p 11. [Link](#)

⁹⁹ Ibid.

3.1.5. Relationship between EU legal acts and national law within the scope of the eFTI

156. The legal acts within the scope of the eFTI and the resulting information requirements, in respect of which the competent authorities must ensure the receipt of information, are described in Article 2 of the eFTI Regulation.
157. **Article 3 of Directive 92/106/EEC (requirements for combined transport — transport document):** In Estonia, the Directive has been transposed and combined transport is regulated by subsection 1 of § 33 of the Road Transport Act. The requirements of the carriage document in this regard are set out in subsection 6 of the same section, according to which: The carriage document for a combined transport operation must set out the loading and unloading stations related to the rail leg of the transport operation and the loading and unloading seaports related to the waterway leg of the transport operation. After completing the combined transport operation, the representative of each station or port must make an entry to this effect in the carriage document, unless the final leg of the combined transport operation is carried out using a trailer belonging to an undertaking engaging in the carriage of goods for own account. Pursuant to subsection 1 of § 49 of the Road Transport Act, state supervision over carriage-related documents is exercised by the ETCB (subsection 5 of § 49) and the PBGB (subsection 6 of § 49). The Ministry of Climate also exercises within its competence state supervision over compliance with road transport requirements (subsection 2 of § 49 of the Road Transport Act). However, the Ministry of Climate's competence does not relate to routine inspection of transport documentation (verification, enforcement, approval or monitoring of compliance with the requirements of the information provided for in Article 2), therefore it is not a competent authority within the meaning of Article 3(3) of the eFTI Regulation.
158. **Regulation No 1072/2009 (access to the road haulage market - Community licence for carriage of goods):** The Regulation aims to further open up national road haulage markets, including for cabotage operations. Article 8(3) of that regulation states that national road haulage services carried out in the host Member State by a non-resident haulier shall only be deemed to conform with this Regulation if the haulier can produce clear evidence of the incoming international carriage and of each consecutive cabotage operation carried out. Evidence shall comprise the following details for each operation: (a) the name, address and signature of the sender; (b) the name, address and signature of the haulier; (c) the name and address of the consignee as well as his signature and the date of delivery once the goods have been delivered; (d) the place and the date of taking over of the goods and the place designated for delivery; (e) the description in common use of the nature of the goods and the method of packing, and, in the case of dangerous goods, their generally recognised description, as well as the number of packages and their special marks and numbers; (f) the gross mass of the goods or their quantity otherwise expressed; (g) the number plates of the motor vehicle and trailer.
159. In Estonian national law, the requirements for cabotage operations are laid down in subsection 1 of § 32 of the Road Transport Act, according to which when engaging in cabotage operations in the territory of Estonia, a foreign carrier who is a carrier of a Member State of the European Union, contracting state of the European Economic Area or Swiss Confederation and whom the licence requirement specified in Article 4 of Regulation (EC) No 1072/2009 of the European Parliament and of the Council must follow the conditions applicable to cabotage operations, which are provided for in Articles 8 and 9 of Regulation (EC) No 1072/2009 of the European Parliament and of the Council. Pursuant to subsection 6 of § 49 of the Road Transport Act, state supervision over road transport documents is exercised by a police officer, ie the competent authority is the PBGB. The Transport Administration is not a competent authority within the meaning of eFTI, as its competence as national supervisor is limited to licences, copies of licences, driving licences, certificates and transport permits.
160. **Regulation No 1013/2006 (transboundary movements of waste — movement document).** Article 16(c) of the Regulation requires that each waste shipment is accompanied by a movement document and notification documents containing the written consents and the conditions of the competent authorities concerned. Article 18(1) of the Regulation requires that the waste referred to in Article 3(2) and (4) of the Regulation be accompanied by a document set out in Annex VII to the Regulation containing the signature of the person who arranges the shipment before the shipment takes place and shall be signed by the recovery facility or the laboratory and the consignee when the waste in question is received.
161. Pursuant to subsection 2 of § 108 of the Waste Act, hazardous waste and waste regulated by international agreements may be imported to, exported from and passed in transit through the territory of the Republic

of Estonia on the basis of a permit for transboundary movement of waste (hereinafter transport permit) issued pursuant to the procedure provided for in Regulation 1013/2006/EC of the European Parliament and of the Council. The competent authority within the meaning of Regulation 1013/2006 is the Environmental Board in accordance with subsection 2 of § 110 of the Waste Act. Pursuant to subsection 1 of § 108 of the Waste Act, transboundary movement of waste shall be in accordance with international agreements of the Republic of Estonia which have entered into force and pursuant to the procedure provided in Regulation (EC) No 1013/2006 of the European Parliament and of the Council. Pursuant to subsection 1 of § 113 of the Waste Act, a shipment of hazardous waste or waste regulated by an international agreement shall upon import, export or transit be accompanied by a copy of the transport permit and the consignment note. At present, the accompanying documents for international shipments are prepared in the international waste transport module (RVJV) of environmental decisions information system (**KOTKAS**)¹⁰⁰. As of 1 September 2022, the information system KOTKAS allows for companies to submit an application for an export permit for types of waste subject to control, prepare in the system and transmit to the relevant persons the accompanying document for import and export of waste subject to control as set out in Annex IB and prepare and transmit the accompanying document for types of waste not subject to control as set out in Annex VII. The KOTKAS information system allows for the official to process applications for permits for export, import and transit of types of waste subject to control, make inquiries about the data entered in the accompanying documents and print out reports on the Basel Convention and transboundary movements of waste in the European Union. Pursuant to subsection 6 of § 119 of the Waste Act, supervision over shipment of hazardous waste and transboundary movement of waste is exercised by the Environmental Board and ETCB.

162. **Directive 2008/68 (transport of dangerous goods by road, rail and inland waterway).** Directive 2008/68 as an applicable legal act is referred to in Article 2(1)(v) of the eFTI Regulation. Directive 2008/68/EC regulates the transport of dangerous goods by road, rail and inland waterways on the grounds of safety. The Directive aims to apply the requirements set out in the Agreement on the International Carriage of Dangerous Goods by Road (ADR), the Regulation concerning the International Carriage of Dangerous Goods by Rail (RID) and the European Agreement concerning the International Carriage of Dangerous Goods by Inland Waterways (ADN) to national transport,¹⁰¹ ie essentially the requirements of ADR, RID and ADN are uniformly transposed into EU law and thus also into the law of the Member States. More specifically, reference is made to the following information requirements, which are provided in:

- In ADR Part 5, Chapter 5.4. Paragraph 5.4.1.1 in particular is relevant, containing the detailed information required in the transport document for dangerous substances. The corresponding regulation has been transposed into national law by § 35 of the Road Transport Act, according to the second sentence of which, upon carriage of dangerous goods, the ADR requirements must be followed. A separate implementing act is established on the basis of subsection 17 of § 35 of the Road Transport Act, which is 'Conditions and Procedure for the Carriage of Dangerous Goods by Road and the Organisational Requirements for State Supervision [*Ohtliku veose autoveo tingimused ja kord ning riikliku järelevalve korralduslikud nõuded*]¹⁰². State supervision in respect of documents in accordance with subsection 6 of § 49 of the Road Transport Act is exercised by the PBGB.¹⁰³
- RID Part 5, Chapter 5.4 (COTIF C). Paragraph 5.4.1.1 in particular is relevant, containing the detailed information required in the transport document for dangerous substances (ie, similarly to ADR). The corresponding regulation has been transposed into national law by subsection 2 of § 111 of the Railways Act, according to which the transport of dangerous goods is based on the requirements of Annex C (RID) to the 1980 Convention concerning International Carriage by Rail (COTIF) or the Agreement on International Railway Freight Communications (SMGS). Pursuant to clause 2 of subsection 4 of § 143 of the Railways Act, state supervision is exercised by CPTRA.

¹⁰⁰ Pursuant to clause 7 of subsection 1 of § 40¹ of the General Part of the Environmental Code Act, the environmental decisions information system is a database the purpose of which is to simplify the application for and the processing of transport permits for hazardous waste and for waste regulated by international agreements and accompanying documents for the transboundary transport of waste for which a transport permit is not required, as well as the retention, use and availability of collected data.

¹⁰¹ Recitals 4 and 5 of Directive 2008/68/EC of the European Parliament and of the Council.

¹⁰² Conditions and Procedure for the Carriage of Dangerous Goods by Road and the Organisational Requirements for State Supervision. Minister of Economic Affairs and Infrastructure Regulation 18.9.2018 No 53. - RT I, 24.4.2020, 4.

¹⁰³ The Transport Administration exercises state supervision regarding the training of drivers carrying dangerous goods in accordance with subsection 3 of § 49 of the Road Transport Act, ie its competence is not related to carriage documentation.

More specifically, CPTRA exercises supervision over the implementation of the **Safety Management System** which also concerns the transport of dangerous goods. Requirements for the implementation of the Safety Management System are established by Minister of Economy and Infrastructure Regulation No 83 of 3 December 2020.¹⁰⁴ Regulation No 83 regulates the internal organisation and safety measures of an infrastructure manager / railway undertaking, reporting and notification of incidents affecting railway safety. The Railways Act does not include special supervisory measures relating to the transport of dangerous goods. A possible option for operational intervention in connection with the transport of dangerous goods is the general monitoring over compliance with safety requirements, which are regulated in § 38 of the Railways Act. Pursuant to subsection 1 of § 38 of the Railways Act, precepts may be issued to infrastructure managers / railway undertakings and other possessors of railway infrastructure or railway vehicles for compliance with the requirements arising from this Act and set a reasonable term for compliance therewith. Pursuant to subsection 4 of § 38 of the Railways Act, if the use of a railway vehicle in railway traffic results in danger to the life or health of persons or to the environment or if a railway vehicle used in railway traffic has not been registered, the Consumer Protection and Technical Regulatory Authority has the right to issue a precept to the infrastructure manager / railway undertaking or other possessor of railway vehicles for immediate removal of the railway vehicle from railway traffic. The Railways Act has no separate regulation that would allow checking the freight transport documentation related to the transport of dangerous goods. The fact that the regulation does not allow for adequate supervision of the transport of dangerous goods by rail has also been pointed out in legal literature and in the light of the Railways Act that was previously in force.¹⁰⁵

- ADN Part 5, Chapter 5.4. Paragraph 5.4.1.1 in particular is relevant, containing the detailed regulation required in the transport document for dangerous substances. Pursuant to recital 9 of Directive 2008/68, each Member State should retain the right to exempt from the application of this Directive the transport of dangerous goods by inland waterway if the inland waterways in its territory are not linked, by inland waterway, to the waterways of other Member States, or if no dangerous goods are transported on them. The relevant requirements have not been transposed into Estonian national law. There is also no practical need for this, given that inland waterways are not used for freight transport with other Member States.

163. Regulation No 2015/1998 (civil aviation security — details of waybill or declaration): Regulation No 2015/1998 is set out in Part A of Annex I to the eFTI Regulation, ie it is an applicable legal act within the meaning of Article 2(1)(b) of the eFTI Regulation. It is specified that the information requirement within the scope of eFTI concerns the information set out in points (a), (b), (c), (d), (e), (f) and (g) of point 6.3.2.6 of the Annex to Regulation No 2015/1998. This information must be available for inspection by the appropriate authority at any point before the consignment is loaded on to an aircraft and afterwards for the duration of the flight or for 24 hours, whichever is the longer. In essence, point 6.3.2.6 lays down the content requirements for the air waybill or declaration referred to in point 6.3.2.5, which is attached to the consignment to be transmitted to the air carrier in electronic or written form and the existence of which must be ensured by a regulated agent within the meaning of Regulation No 300/2008¹⁰⁶. The corresponding information is as follows:

- a) the unique alphanumeric identifier of the regulated agent as received from the appropriate authority;
- b) a unique identifier of the consignment, such as the number of the (house or master) air waybill;
- c) the content of the consignment, except for consignments listed in points 6.2.1(d) and (e) of Commission Implementing Decision C(2015) 8005;
- d) the security status of the consignment, stating:
 - ‘SPX’, meaning secure for passenger, all-cargo and all-mail aircraft, or
 - ‘SCO’, meaning secure for all-cargo and all-mail aircraft only, or

¹⁰⁴Safety management system, safety indicators, verification of compliance with railway infrastructure, traffic management and safety requirements, their reporting, forms and deadlines and notification of incidents affecting railway safety. Minister of Economic Affairs and Infrastructure Regulation 3.12.2020 No 83. - RT I, 11.8.2023, 7.

¹⁰⁵D. Nõukas. Ohtlike kaupade raudteevvedu. Juridica IX/2004, p 631.

¹⁰⁶A regulated agent within the meaning of Article 3(26) of Regulation No 300/2008 is an air carrier, agent, freight forwarder or any other entity who ensures security controls in respect of cargo or mail.

- 'SHR', meaning secure for passenger, all-cargo and all-mail aircraft in accordance with high risk requirements.
- e) the reason that the security status was issued, stating:
 - 'KC', meaning received from known consignor, or
 - 'AC', meaning received from account consignor, or
 - 'RA', meaning selected by a regulated agent, or
 - the means or method of screening used, or
 - the grounds for exempting the consignment from screening,
- f) the name of the person who issued the security status, or an equivalent identification, and the date and time of issue;

164. The obligation to provide this information is part of the security measures (ie it is additional information in addition to what is generally contained in the air waybill, the obligation to comply with which under national law arises from the Aviation Act. Pursuant to subsection 1 of § 46¹² of the Aviation Act, in accordance with Regulation (EC) No 300/2008 of the European Parliament and of the Council, Commission Regulations (EC) No 272/2009 and (EU) No 2015/1998, the known consignor, the regulated agent and the account consignor are responsible for implementing security measures for cargo and mail. Pursuant to § 60¹ of the Aviation Act, supervision over the obligations of the regulated agent is exercised by the Transport Administration.

Table 10. Scope of eFTI based on EU legal acts with regard to Estonian national law and competent authorities

#	EU legal acts	Scope of regulation	Estonian legal act	Information	Relevant provisions	Competent authority
1.	Art 16(c) and Art 18(1) of Regulation No 1013/2006	Transboundary movements of waste, hazardous waste	Waste Act	Accompanying documents for waste	§§ 108, 110, 113, 115	Environmental Board; ETCB
2.	Article 3 of Directive 92/106/EEC	Requirements for combined transport	Road Transport Act	Carriage document	Subsection 4 and 5 of § 29, subsections 1 and 6 of § 33	ETCB; PBGB
4.	EEC Council Regulation No 11	Abolition of discrimination in transport rates and conditions	-	-	-	-
5.	Article 8(3) of Regulation 1072/2009 of the European Parliament and of the Council	Access to the road transport market, cabotage operations	Road Transport Act	Information on international transport and cabotage operations	Subsection 1 of § 32, subsections 5 and 6 of § 49	PBGB
6.	Commission Implementing Regulation (EU) 2015/1998	Security of civil aviation	Aviation Act	Air waybill or declaration	§ 46 ¹² , clause 6 of subsection 2 of § 60 ¹	Transport Administration
7.	Directive 2008/68/EC	Road, rail and waterborne transport of dangerous goods	Railways Act	Accompanying documents for dangerous goods	§ 111 ; clause 2 of subsection 4 of § 143	CPTRA

	Road Transport Act	Documents accompanying the cargo (including the certificate of authorisation for the carriage of dangerous goods by road)	Subsection 4 and 5 of § 29, subsection 10 of § 35, subsection 5 and 6 of § 49	ETCB; PBGB
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165. In addition to the eFTI competent authorities, additional consideration must be given to authorities that may need access to data through the eFTI Gate, for example in the context of preventive activities or, more broadly, state supervision. A distinction must therefore be made between authorities to which data are transmitted within the framework of the eFTI (competent authorities within the meaning of the present legal analysis) and authorities to which such data are not transmitted directly, but which have the right to access such data on the basis of a statutory mandate. Here is a typical example from the field of aviation security, where the Transport Administration is the competent authority, but according to subsection 3 of § 60¹ and subsection 1¹ of § 60² of the Aviation Act, access to data is actually also guaranteed to the Estonian Internal Security Service for supervision and prevention purposes. Consequently, the right of access to data through the eFTI Gate can be extended to a wider range of public authorities in the future than only the competent authorities to which economic operators transmit data within the framework of the eFTI. In this case, the question of whether the authority can use any of the existing AAPs for access or should a separate one be created needs to be resolved. This is the same issue which does not relate to the national implementation of the eFTI Regulation and would require a separate analysis.

3.1.6. Summary

166. International trade, as well as matters relating to freight transport information, is to a significant extent regulated by international law, so there has been no need to establish specific requirements under national law. The situation is somewhat different in road transport, where there is a high proportion of domestic transport, as well as a number of separately regulated and organised carriages (eg timber), for which the legislator has established specific requirements for freight documentation, but which is nevertheless also based on the CMR. International maritime transport is not within the scope of the eFTI Regulation, but in the context of possible future developments, it is appropriate to note that, like many other countries, Estonia has not ratified the Hague–Visby Rules, but has considered them *de facto* in the Merchant Shipping Act. In the maritime sector, detailed national regulation on the transmission of information is also due to EU directives, which is reflected in the Maritime Safety Act and regulations adopted thereunder. The Maritime Information System (EMDE) is also applied under EU law. Among the information systems in use, we can also highlight the Safety Management System¹⁰⁷ and KOTKAS¹⁰⁸ in the field of waste, the Traffic Supervision Information System in road traffic and the e-waybill solution used for the transport of timber.
167. The eFTI Regulation governs the exchange of specifically delimited data between the state and an economic operator relating to combined transport, cabotage, shipment of waste and carriage of dangerous goods and civil aviation security. The above also delineates the set of competent supervisory authorities that have the right to access the data of the eFTI platform. Here it is important to additionally distinguish the substantive supervisory activities of the supervisory authority. In other words, the Transport Administration, for example, has very different supervisory powers, but it is only competent to access data from the eFTI platform if the purpose of the supervisory operation is the need to consult specific data. For example, the Transport Administration carries out state supervision over the fulfilment of the requirements for the organisation of occupational and continuous training of drivers, training of drivers transporting dangerous goods. This specific supervisory competence implies the right to check the quality of certain trainings, but not access to the freight transport data of the eFTI platform. For this, there must be a specifically prescribed competence, ie a legal basis. Thus, for example, in the case of hazardous waste, the Environmental Board and ETCB have an obligation under subsection 6 of § 119 of the Waste Act to

¹⁰⁷ Hazardous Waste Consignment Note Information System. Environment Agency [Link](#)

¹⁰⁸ Environmental Decisions Information System. Kotkas. the Environment Board. [Link](#)

exercise supervision over whether the shipment of waste is accompanied by a waste transport permit and a consignment note. Access to relevant eFTI platform data is therefore also necessary.

168. In view of the above, the legal analysis has identified the Environmental Board, Transport Administration, ETCB, CPTRA and PBGB as competent authorities for the implementation of eFTI, who, within the limits of their powers, must have access to information on the eFTI platform.
169. The eFTI Regulation, which applies to the requirements arising from various legal provisions in the field of transportation, creates a new technical solution for fulfilling existing requirements. The eFTI Regulation does not replace the existing requirements, but aims to ensure that the requirements relating to freight transport information can be fulfilled in electronic form in a common format across the EU and in a manner acceptable to the competent authorities. Consequently, there is also no need for substantive changes to the content requirements relating to freight transport information in the context of national implementation of eFTI. This fact is also referred to in recital 7 of the eFTI Regulation.¹⁰⁹ Further regulation is necessary in particular as regards the electronic transmission of freight transport information, the legal bases for data exchange and access to data and related requirements.

3.2. Current situation from the perspective of the economic operator

3.2.1. Relationship between freight transport documentation and eFTI in general

170. For the implementation of the eFTI, information on actual transport operations being carried out or that have been carried out is important. A precondition for the carriage to take place is a contract of carriage between the parties, as evidenced by a carriage document approved by the parties¹¹⁰. On the other hand, carriage documents also include other accompanying documents necessary for the carriage of goods (eg for carrying out customs formalities, safety instructions in the case of dangerous goods, detailed data on dangerous goods, etc). These data also have legal significance only when the carriage takes place, so these data must be viewed in the light of the carriage document and the different stages of transport, ie it is important to identify the start and end of the different stages of the transport process and the related declarations of intent.
171. The existence of a carriage document is in the interest of all participants in the transport process (consignor, carrier, consignee), since it certifies the conclusion of the contract of carriage, the transfer of the goods to the carrier, in what quantity and external condition the goods have been handed over (evidentiary function). In addition, the carriage document provides the carrier with information about the transported goods, their characteristics and, accordingly, the rules for handling the goods (information function).¹¹¹ A carriage document is drawn up on the basis of the information provided by the consignor and the consignor is responsible for its accuracy. The consignor is also liable for the correctness, existence and transfer of other accompanying documentation to the carrier and for any damage resulting from their deficiencies. In practice, a list of transferred documents is also often attached to the carriage document in order to avoid disputes later.
172. The carriage document may also have the meaning of a document of title, which allows the transfer of ownership and possession of the goods upon delivery of the corresponding carriage document without physically transferring the goods. In practice, carriage documents of this nature are used, in particular, at marine shipping, where they are called bills of lading. In the Law of Obligations Act, such carriage document is regulated under § 806 (bill of lading). The need for a bill of lading arises in particular in a situation where the transport process is long and it is necessary to transfer the ownership of the goods during carriage. The issuance of a bill of lading may also be necessary to obtain financing from banks or insurance from

¹⁰⁹Recital 7 of the eFTI Regulation: 'Since this Regulation is only intended to facilitate and encourage the provision of information between the economic operators and competent authorities by electronic means, it should be without prejudice to the provisions of Union legal acts or national law determining the content of regulatory information and, in particular, should not impose any additional regulatory information or language requirements.'

¹¹⁰ For different modes of transport, the law and international conventions have different terms to mark a carriage document, eg waybill, consignment note, movement document etc, but their content and meaning are essentially the same. In addition to a carriage document, the goods are accompanied by other necessary documentation for customs clearance and similar operations in the transport process, which can be generically called accompanying documentation.

¹¹¹ P. Varul et al. *Võlaõigusseadus IV. Kommenteeritud väljaanne*. Tallinn 2020, pp. 235-236.

insurers, since the bill of lading also acts as a security (gives the owner rights to the goods, and also the right to pledge the goods).¹¹²

173. With regard to the distinction between a standard carriage document (eg a waybill) and a carriage document with the meaning of a document of title (eg a bill of lading), it is appropriate to note that a waybill governs the relationship between the consignor and the carrier, but a bill of lading between the carrier and the consignee.
174. Both international conventions¹¹³ and the case-law of the Supreme Court of Estonia¹¹⁴ emphasise that the carriage document (including the bill of lading) is *prima facie* evidence, ie the accuracy of the data contained therein is presumed and the burden of proof to prove the contrary lies on the disputing party. It is important that the carriage document is approved by both parties (signature, stamp, etc), because otherwise it does not have the value of *prima facie* evidence in a dispute.¹¹⁵
175. The importance of carriage documents and accompanying documents for freight lies, among other things, in the fact that they must necessarily contain information about dangerous goods. The provision of information on dangerous goods is part of the subject matter of the eFTI Regulation. The consignor is obliged to inform the carrier of the danger of the goods in such timely manner that the carrier is able to take the necessary measures for the safe carriage of the goods. Thus, this must be done before the carriage document is approved by the carrier. If the consignor fails to provide information on dangerous goods, they are liable for the damage caused to the carrier. From the perspective of eFTI, entering up-to-date information on dangerous goods is important with regard to state supervision.
176. It was noted above that the carriage document certifies the acceptance of the goods by the carrier and certifies the conclusion of the contract of carriage, and therefore the carriage document as approved by the parties indicates the beginning of the transport process. It is also an important distinction because the carrier is responsible for the goods during the period from receipt to delivery. The moment of delivery of the goods is usually the signing of the carriage document by the consignee, that is, the acceptance of the goods at the place of destination. In practice, situations arise when during carriage, it is necessary to change the consignee, destination or otherwise deal with the cargo differently than originally agreed. The consignor or other person specified in the carriage document has the right to give such instructions, but this is limited in time until the moment when the consignee has accepted the goods or confirmed receipt of the goods by signing the carriage document (or by any other identifiable way). After that, the consignee will have the right to give instructions. The important thing is that the right to give instructions cannot belong to several persons at once. Insofar as the bill of lading regulates relationships between the carrier and the consignee, the right to issue instructions passes to the consignee (not the consignor) with the issuance of the bill of lading.
177. The above shows the importance of the information of carriage and accompanying documents for the implementation of eFTI, as well as the challenge for eFTI platforms, since eFTI platforms must provide access to up-to-date and valid information on the status of the carriage document, ie the stages changing the responsibilities and rights and obligations of the parties must be defined in time very precisely. Otherwise, the supervisory authority will also not be able to adequately assess, on the basis of the information available, whether and how to act in carrying out supervisory operations. In the interaction between economic operators, the relevant information is of decisive importance in the identification of the rights and obligations of the parties, should they be brought into dispute.
178. At this point, it is appropriate to clarify that eFTI is not equivalent to an eCMR or any other e-waybill – eFTI is simply a technical solution. The above is illustrated by the table below ¹¹⁶using the example of eCMR (road transport), the logic of which extends to other modes of transport.

Table 11. Comparison of eCMR and eFTI

¹¹² Ibid, p 236.

¹¹³ This fact is highlighted in the below discussion of conventions relating to different modes of transport.

¹¹⁴ See eg, Supreme Court Civil Law Chamber judgment 3-2-1-143-08, p 12-13, and 3-2-1-56-06, p 12.

¹¹⁵ P. Varul et al. Võlaõigusseadus IV. Kommenteeritud väljaanne. Tallinn 2020, p 239.

¹¹⁶ Open Logistics Foundation „The next big thing“: the eFTI Regulation [Link](#)

Parameter	Electronic consignment note (eCMR)	eFTI
Legal basis	Additional Protocol to the Convention on the Contract for the International Carriage of Goods by Road (CMR) Concerning the Electronic Consignment Note	Regulation (EU) 2020/1056 of the European Parliament and of the Council on electronic freight transport information
Content	Giving the same evidentiary force to an electronic consignment note as compared to a paper consignment note	Promoting the digitisation of freight transport information and acceptance by public authorities of digital transport information
Category	Document	Data model
Scope of regulation	International, CMR Member States	EU (all Member States)
Mode of transport	Cross-border freight transport, road transport	(Cross-border) freight transport: <ul style="list-style-type: none"> • by road • by rail • by air • by inland waterways (Cross-border) shipping of waste: <ul style="list-style-type: none"> • by road • by rail • by air • by sea • Inland water bodies
... exchange (between whom)	... economic operators (B2B between operators)	... companies and public authorities (from economic operators to public authorities, B2A)
... exchange (what)	... private information on the contract between logistics companies (shipper and carrier), as well as for authorities with the function of information carrier	... freight transport information required under EU and national legal acts from authorities

3.2.2. The importance of freight transport documentation as evidential document confirming the transaction

3.2.2.1. Road transport

179. According to the CMR¹¹⁷, which is of central importance in road transport, a consignment note does not replace a contract of carriage and the primary importance of a consignment note is that it is evidence of the conclusion of the contract of carriage and terms and conditions thereof. Pursuant to Article 4 of the CMR, the contract of carriage shall be confirmed by the making out of a consignment note. Pursuant to Article 9 of the CMR, the consignment note shall be *prima facie* evidence of the making of the contract of carriage, the conditions of the contract and the receipt of the goods by the carrier. It is important to note that the absence, irregularity or loss of the consignment note does not affect the existence or the validity of the contract of carriage which shall remain subject to the provisions of the CMR.
180. The importance of the consignment note is revealed, in particular, in proving the relationship between the parties in the event of a dispute. In practice, the consignment note is often the only evidence by which the rights and obligations of the parties can be proven in the event of a dispute. The absence of a consignment

¹¹⁷ Convention on the Contract for the International Carriage of Goods by Road (CMR). Government of the Republic foreign agreement 19.5.1956. — RT II, 1995, 3, 12.

note or the inclusion of incorrect/incomplete data on it may lead to adverse legal consequences for the party/parties. If the information contained in the consignment note differs from how the carriage was actually carried out or what was transported and the contracting party is unable to prove when needed of what actually transpired, the data on the consignment note is adhered to, which may also lead to adverse consequences for the party, for example in terms of the extent of liability.¹¹⁸

181. Therefore, it is important to indicate on the consignment note all important data concerning the contract of carriage, including persons involved in the transport process (for example, the forwarder, the sub-carrier used by the forwarder)¹¹⁹, the transport of dangerous goods and other documents handed over to the carrier for the performance of the contract of carriage (for example, for completing customs clearances, instructions for handling dangerous goods, etc), in order to make it easier to prove important facts later, if necessary. Depending on the specific field, data that is not directly derived from legislation may also be entered on the consignment note, eg in the case of the transport of timber, it is customary to include information on the origin and certificates of the timber on the consignment note.

3.2.2.2. Rail transport

182. A distinction must be made between the consignment note regulated by the SMGS Convention and the consignment note regulated by the COTIF Convention.¹²⁰ For the sake of clarity, it should be stated once again that SMGS, as it stands, is outside the scope of the eFTI.

183. There are a number of similarities with the **SMGS consignment note** compared to the road transport carriage document. According to the SMGS, the consignment note does not replace the contract of carriage, but certifies the existence of the contract of carriage and the conditions applicable to it. Likewise, each successive carrier, by taking over the goods for carriage, together with the consignment note, thereby accedes to this contract of carriage and shall assume the obligations arising therefrom (§§ 3 and 5 of article 14). Incorrect or inaccurate information entered in the consignment note, as well as the loss of the consignment note by the carrier shall affect neither the existence nor the validity of the contract of carriage (§ 4 of Article 14). The same principles apply to CMR. The importance of the SMGS consignment note in the transport process is expressed in the fact that the consignment note records the execution of the various stages in the transport process and also delimits temporally the possibility of changing the contract of carriage. Additional data/remarks may be added to the consignment note, the purpose of which is ultimately to clarify the rights and obligations of the parties in the transport process. All of the above begins to have meaning in matters concerning disputes and identification of liability. All in all, both the SMGS consignment note and the road transport CMR consignment note have a similar legal meaning, and it is important to correctly and accurately reflect the transport process, because otherwise it can lead to difficulties in proving the circumstances concerning the carriage. Thus, the SMGS/CMR consignment note should be viewed, *inter alia*, from the perspective of being the most central evidence of the transport process, which helps to identify in retrospect the circumstances relevant to the resolution of disputes or the establishment of liability.

184. The **COTIF Annex B (CIM UR) consignment note** is, like the SMGS¹²¹ consignment note, in particular, a certificate of the concluded contract of carriage and its conditions, but does not replace the contract of carriage. However, the absence, irregularity or loss of the consignment note shall not affect the existence or validity of the contract which shall remain subject to the CIM UR (Article 6 § 2). The CIM consignment note has also the quality of *prima facie* evidence, ie until proven otherwise, the consignment note is evidence of the conclusion and the conditions of the contract of carriage and the taking over of the goods by the carrier. (Article 12 § 1). Article 6 § 5 of the CIM UR provides separately that the consignment note shall not have effect as a bill of lading. The CIM consignment note, as *prima facie* evidence, also has importance with regard to the following facts and circumstances.

- If the carrier has loaded the goods, the consignment note serves as evidence, until proven otherwise, of the condition of the goods and their packaging indicated on the consignment note or, in the absence of such indications, of their apparently good condition at the moment they were taken

¹¹⁸ Mahl, R. CMR. Teooria ja praktika. Interlex 2003, pp 168-169.

¹¹⁹ Ibid, p 174.

¹²⁰ For the sake of clarity it should be stated that SMGS and COTIF use the term 'consignment note' to refer to a carriage document. Therefore, the term consignment note is also used here, but its substantive meaning is the same as that of a carriage document.

¹²¹ The corresponding Appendix to COTIF regulates international rail freight transport in Western Europe.

over by the carrier and of the accuracy of the statements in the consignment note concerning the number of packages, their marks and numbers as well as the gross mass of the goods or their quantity otherwise expressed.

- If the consignor has loaded the goods, the consignment note serves as evidence of the data cited above solely in the case where the carrier has examined them and recorded on the consignment note a result of his examination which tallies (Articles 12 § 2 and 12 § 3). Pursuant to Article 11, the carrier is obliged to carry out such examination if the consignor so requests and the carrier has the appropriate means to carry out the examination. The costs associated with the examination are reimbursed by the consignor.

3.2.2.3. Air transport (under the Montreal Convention)

185. As in road and rail transport, waybills or air waybills and cargo receipts are evidence of the conclusion of a carriage contract, the acceptance of the cargo and of the conditions of carriage mentioned therein, but do not replace the contract of carriage (Article 11). An air waybill is a paper-based carriage document that performs the function of a consignment note, and a cargo receipt is issued if the air waybill's carriage details are on another information medium (eg in electronic form) (Article 4). The cargo receipt must allow identification of the consignment and access to data contained in the record preserved by such other means (Article 4). Consequently, for the purposes of this analysis, an air waybill is also understood as a cargo receipt, unless there is a need to distinguish between the two.
186. The absence, irregularity or loss of the air waybill shall not affect the existence or the validity of the contract of carriage, which shall, nonetheless, be subject to the rules of the Convention (Article 9).
187. The air waybill has the quality of *prima facie* evidence, ie until proven otherwise, of the air waybill is evidence of conclusion of the carriage contract, of the conditions of carriage mentioned therein and of the acceptance of the cargo by the carrier (Article 11).
188. The importance of the air waybill is particularly evident in the proof of the relationship between the parties, for example, in the event of a dispute. As in road and rail transport, the consignor is primarily responsible for the accuracy and completeness of the information contained in the air waybill (Article 10).

3.2.2.4. Maritime transport (outside the scope of the eFTI)

189. In comparison with other modes of transport, in maritime transport the bill of lading (document of title) has historically had the most importance. In addition to the bill of lading, the **sea waybill** is used, which in practice has also become commonplace in maritime transport, because there is not always the need to issue a bill of lading. Both documents are issued both on paper and on electronic information carrier. Historically, bills of lading have been in paper form, but the need and demand for information in digital form has arisen in practice. For this reason, for the sake of clarity, the Merchant Shipping Act was supplemented in 2023 so that the bill of lading can also be issued in electronic form. Although the regulation imposed on the bill of lading applies to a large extent to the sea waybill, the Merchant Shipping Act does not consider the sea waybill's electronic form to be equivalent to the written form.
190. **Bill of lading.** In maritime transport like other modes of transport, a bill of lading certifies the conclusion of a contract of carriage, in particular the conclusion of a contract for the carriage of cargo within the meaning of § 4 of the Merchant Shipping Act. Thus, the bill of lading itself does not replace the contract of carriage (subsection 2 of § 38 of the Merchant Shipping Act). It is important to emphasise that the bill of lading regulates the rights and obligations between the carrier and the consignee, and not between the carrier and the shipper. A bill of lading is also a *prima facie* evidence, that is, its particulars are considered correct until proven otherwise. This does not apply to information concerning which a reasoned notation has been made in the bill of lading (subsection 1 of § 42 of the Merchant Shipping Act). For other modes of transport, the relevant carriage documents (consignment note, waybill, etc) have a similar meaning.
191. A bill of lading is distinguished from a regular consignment note/waybill, etc, by the fact that a bill of lading is a document of title that gives its holder the right to dispose of the goods. By issuing a bill of lading the carrier recognises that the goods to be carried have been received and undertakes to carry the received goods to their port of destination in the manner described in the bill of lading and to deliver the goods there to the person who submits the bill of lading and is entitled to receive the goods pursuant to the bill of lading.

A bill of lading is a document widely used in international trade to ensure that shippers receive payment for goods and consignees receive the desired goods (subsection 1 of § 38 of the Merchant Shipping Act).¹²²

192. Unless otherwise set out in the bill of lading, the bill of lading certifies among other things that the carrier has received the goods specified in the bill of lading and loaded them onto a ship (subsection 3 of § 39 of the Merchant Shipping Act).
193. **Sea waybill.** A sea waybill is an analogous document as a consignment note/waybill is in other modes of transport. The most important difference of a sea waybill compared to a bill of lading is that a sea waybill certifies acceptance of the goods by the carrier, but does not give the right of disposal of the goods to the holder of the sea waybill, ie a sea waybill is not a document of title.
194. The content and issuance of a sea waybill are largely subject to the same regulation as the bill of lading (subsection 3 of § 47 of the Merchant Shipping Act). Thus, the sea waybill is, by its nature, also *prima facie* evidence as to the data contained therein.
195. An overview of the meaning of freight transport documentation by different modes of transport has been provided in the following Table (Table 12).

¹²²Act to amend the Merchant Shipping Act and the Maritime Safety Act 741 SE. Explanatory memorandum, pp 27. [Link](#)

Table 12. The meaning of freight transport documentation by different modes of transport

Meaning of the carriage document ¹²³	Road (CMR, Law of Obligations Act, Road Transport Act)	Eastern Europe, Asia, railway (SMGS)	Western European Railway (CIM UR, COTIF)	Air (Montreal Convention)	Maritime transport (Merchant Shipping Act, Hague-Visby Rules)	
					Sea waybill	Bill of lading
Does it replace the carriage contract?	no	no	no	no	no	no
Evidence of conclusion of a contract of carriage	yes	yes	yes	yes	yes	yes
Evidence of the contractual terms applicable to the contract of carriage	yes	yes	yes	yes	yes	yes
Evidence of acceptance of the goods	yes	yes	yes	yes	yes	yes
Contains information on the documentation handed over to the carrier (for carrying out customs formalities, etc, certificates, instructions)	yes	yes	yes	yes	yes	yes
Contains information about all persons executing the transport process (carriers, forwarders, etc)	yes	yes	yes	yes	yes	yes
Contains information about dangerous goods	yes	yes	yes	yes	yes	yes
<i>Prima facie</i> evidence (presumption that the information on the carriage document is correct)	yes	yes	yes	yes	yes	yes
The consignor is responsible for the accuracy and completeness of the information on the carriage document	yes	yes	yes	yes	yes	yes

¹²³ For different modes of transport, different terms for carriage document are used (waybill, consignment note, bill of lading, sea waybill, etc) and in this case the term carriage document is used generally in relation to all modes of transport.

Meaning of the carriage document ¹²³	Road (CMR, Law of Obligations Act, Road Transport Act)	Eastern Europe, Asia, railway (SMGS)	Western European Railway (CIM UR, COTIF)	Air (Montreal Convention)	Maritime transport (Merchant Shipping Act, Hague-Visby Rules)	
					Sea waybill	Bill of lading
The carriage document is also a document of title	no	no	no	no	no	yes
Applicability of the Law of Obligations Act	yes	yes	yes	yes	no ¹²⁴	no ¹²⁵
Method of approval of the carriage document (signature or similar requirement)	signature (may also be printed), stamp or, in the case of eCMR, electronic authentication	stamp; in the case of an electronic document, a calendar stamp	signature, stamp or registration mark or other appropriate (including electronic) means	a signature, which may be replaced by a signature stamp or printed; reliable electronic authentication	no specific requirement	signature or reliable electronic authentication

¹²⁴ In the case of combined transport (carriage of goods on the basis of a single carriage contract with different types of vehicles by sea, air or land), the Law of Obligations Act (subsection 3 of § 4 of the Merchant Shipping Act) also applies to maritime contracts to a certain extent.

¹²⁵ Ibid.

196. On the basis of the foregoing, it can be concluded that a freight carriage document is proof of the conclusion of the contract of carriage and the conditions applicable thereto, but at the same time it does not replace the contract of carriage. In terms of legal meaning, the bill of lading used in maritime transport is different, and, unlike others, is considered a document of title. All documents of carriage can be approved either by signature or by stamp.

3.2.3. Importance of freight transport documentation from the perspective of division of liability

3.2.3.1. Road transport

197. The proper filling out / drawing up of the consignment note is particularly important for the consignor of the goods, since according to Article 7, paragraph 1, of the CMR the consignor is responsible for almost all the data indicated on the consignment note¹²⁶. Also, in accordance with Article 11, paragraph 1, of the CMR, the consignor is responsible for ensuring that the consignment note is accompanied by other documents necessary for the execution of the contract of carriage (documents for customs procedures, safety instructions for the transport of dangerous goods, etc).
198. It would therefore be reasonable to also indicate on the consignment note a list of documents that have been handed over to the carrier for the purpose of performing the carriage¹²⁷. For the carrier, it is undoubtedly important that the consignment note contains a statement that the carriage is subject to the CMR (Article 6, paragraph 1 (k), of the CMR).
199. In the case of paper consignment notes, three signed and numbered original copies are drawn up, each copy of which bears a specific meaning and owner. The arrangement of things like that arises from a practical need, since it makes it possible to carry out the operations/stages necessary in the transport process and, if necessary, to identify operations related to the disposal and delivery and acceptance of goods. In conclusion, this ensures the possibility of checking the performance of the transport contract and resolving the issue of liability in the event of improper performance. So, original copy No 1 is necessary in order to certify the transfer of goods for carriage from the sender to the carrier. Original copy No 2 accompanies the goods and is given to the consignee. Original copy No 3 remains with the carrier as confirmation that the goods have been handed over to the consignee (signed by the consignee)¹²⁸.
200. The absence, inaccuracy or inadequacy of the consignment note can potentially lead to disputes in very important matters, which can significantly affect the liability of the parties. In the absence of a consignment note, disputes about the existence of a valid contract of carriage, as well as whether the contract is subject to CMR regulation at all, can not be ruled out. Inaccuracy or incompleteness of the consignment note may lead to issues in identifying the persons liable (eg the consignment note does not contain the forwarder or carrier who actually participated in the transport process), as well as cause the sender or carrier of the goods to be liable for damage that could have been avoided. In practice, however, disputes are probably most likely to arise from the adequacy/inadequacy of the data provided by the sender to the carrier for the performance of the contract of carriage and the damage resulting therefrom. The latter, in particular, because, under Article 7 of the CMR, the sender is liable in most cases for the consequences caused by the incomplete consignment note.
201. According to Article 11 of the CMR, the sender is obliged to attach the necessary documents to the consignment note or make them available to the carrier and inform him of all the necessary information for the customs and other operations to be carried out before the goods are handed over to the consignee. The carrier is under no obligation to verify the accuracy or adequacy of these documents and data. The sender shall be liable to the carrier for any damage caused by the absence, inadequacy or irregularity of such documents and information, except in the case of some wrongful act or neglect on the part of the carrier (Article 11, paragraph 2).
202. The general rule is that on taking over the goods, the carrier checks the accuracy of the statements in the consignment note as to the number of packages and their marks and numbers, and the apparent condition

¹²⁶ Mahl, R. *op cit*, p 173.

¹²⁷ *Ibid*, p 191.

¹²⁸ *Ibid*, p 173.

- of the goods and their packaging (Article 8, paragraph 1). The carrier does not have such an obligation if, for some reason, it does not have a reasonable opportunity to check this data, but in this case a corresponding reservation must also be entered in the consignment note (Article 8, paragraph 1). If the consignment note contains no such reservations, it shall be presumed that the data in the consignment note is accurate and the carrier is liable for any deficiency or damage to the goods, unless the carrier can prove that the deficiencies were already there at the takeover of the goods (Article 9, paragraph 2, and Article 17).
203. When determining the liability of the carrier in the event of loss of goods, the indication of the consignment note also is of importance, for example, in a situation where the goods were transported by open unsheeted vehicles. If this was clearly agreed and indicated in the consignment note, then the burden of proof on the carrier is significantly alleviated in terms of relief of liability (Articles 17 and 18).
 204. In practice, situations may arise where during transportation the consignee, destination, or other parameter needs to be changed. In this case, in order to exclude its own liability, the carrier must ascertain whether and who has the right to provide the carrier instructions. In the case of new instructions, the carrier shall require the presentation of original copy No 1 of the consignment note that must contain the new instructions to the carrier. The issuer of the new instructions indemnifies the carrier against all expenses, loss and damage involved in carrying out such instructions. The new instructions may be issued by both the sender and the consignee, depending on the stage of the transport process at which the instruction is given or whether the consignment note contains an indication of the consignee's respective rights (Article 12).
 205. Sometimes a carriage is carried out by several successive carriers, and in such a situation the consignment note is important in regulating the relations between carriers (including liability), since all carriers are liable for the entire carriage, but between them the carriers have the right to recourse according to who is actually guilty of causing the damage (Article 35, paragraph 2, and Article 37 of the CMR). Pursuant to Article 34 of the CMR, if carriage governed by a single contract is performed by successive road carriers, each of them shall be responsible for the performance of the whole operation, the second carrier and each succeeding carrier becoming a party to the contract of carriage, under the terms of the consignment note, by reason of his acceptance of the goods and the consignment note. A carrier accepting the goods from a previous carrier shall give the latter a dated and signed receipt. He shall enter his name and address on the second copy of the consignment note. Where applicable, he shall enter on the second copy of the consignment note and on the receipt reservations of the kind provided for in article 8, paragraph 2.¹²⁹.
 206. The consignment note also plays an important role in the transport of dangerous goods, as the consignment note must contain entries which explain the exact nature of the danger and the precautions to the carrier. If this is not reflected in the consignment note and the sender is unable to prove of having actually transmitted the relevant information to the carrier, then the sender risks a loss of goods without receiving compensation for it. Namely, the carrier may unload, destroy or render harmless the goods concerned if the carrier not aware of its danger. In addition, the sender shall be liable for all expenses, loss or damage arising out of the dangerous goods being handed over for carriage or of their carriage upon violating the notification obligation (Article 22).
 207. Article 23, paragraph 3, of the CMR Convention defines the maximum liability of the carrier in the event of total or partial loss of goods. However, it is possible to increase this limit of liability if the corresponding indication is reflected in the consignment note (Article 24).
 208. In conclusion, a properly drawn up consignment note greatly simplifies the definition of liability in the event of disputes.
 209. For the eCMR the same principles apply as for the paper consignment note, with the difference that everything takes place in an electronic environment and therefore there is no need for three copies either. The use of eCMR also requires that all parties to the transport process have agreed and are able to carry out the necessary operations (access to data, authentication, etc) in an electronic environment.

¹²⁹ Pursuant to Article 8, paragraph 1, of the CMR, upon receipt of the goods, the carrier checks the accuracy of the statements in the consignment note as to the number of packages and their marks and numbers. If the carrier has no reasonable means of doing this, then in accordance with Article 8, paragraph 2, they must enter the corresponding reservations in the consignment note.

3.2.3.2. Rail transport

210. **Regulation arising from SMGS** (outside the scope of the eFTI Regulation). The proper filling out / formalisation of the consignment note (ie the carriage document) is particularly important for the consignor of the goods, because in accordance with § 1 of Article 16 and § 3 of Article 22 of SMGS, the consignor is responsible for the correctness of the particulars and statements entered in the consignment note by the consignor. The consignor is liable for any consequences arising from incorrect, inaccurate or incomplete data or statements, as well as for the fact that they are written in the wrong box of the consignment note. If the carrier writes the instructions of the consignor on the consignment note in accordance with the provisions of this agreement, the carrier is deemed to be acting on behalf of the consignor unless proven otherwise.
211. The carrier shall not be obliged to check whether the accompanying documents attached by the consignor to the consignment note are correct and sufficient (§ 2 of Article 22). However, the carrier is entitled to verify whether the consignor has complied with the conditions of carriage and whether the consignment corresponds to the particulars furnished by the consignor in the consignment note (§ 1 of Article 23). If such verification should reveal that the consignor has not complied with the conditions of carriage or the consignment does not match the information supplied by the consignor in the consignment note, the carrier must be compensated for all costs resulting from the verification and substantiated by supporting documents (§ 2 of Article 23).
212. If, before the conclusion of the contract of carriage, the carrier detects incorrect, inaccurate or incomplete particulars in the consignment note, the consignor shall produce a new consignment note if the Rules for the Carriage of Goods do not permit correction of particulars and statements in the consignment note (§ 2 of Article 16).
213. The consignor shall pay the carrier a penalty if, after a contract of carriage has been concluded, the carrier finds particulars and statements furnished by the consignor in the consignment note to be incorrect, inaccurate or incomplete and, at the same time, establishes that circumstances jeopardising the safety of traffic have arisen (§ 3 of Article 16).
214. If the carriage or delivery of the goods is delayed because the consignor has not submitted the necessary accompanying documents or the documents it has submitted and listed in the consignment note are inadequate or incorrect, the carrier shall be paid the resulting additional carriage charges and costs as well as the penalties provided for by national law as laid down in Article 31 'Payment of carriage charges and penalties' of SMGS (§ 5 of Article 22).
215. Although the consignment note certifies the concluded contract of carriage and its conditions, it still does not permit formal disregard of the actual situation. When a consignment note is found to contain incorrect, inaccurate or incomplete information, the carrier who found this discrepancy and successive carriers shall calculate the carriage charges for the goods actually carried (§ 5 of Article 30).
216. The consignment note also serves to establish the point in time from which the consignor can no longer amend the contract of carriage (change of destination, etc). The consignor's right to amend the contract of carriage shall cease when the consignment note is delivered to the consignee or the goods have arrived at the border station of entry into the country of destination, if the carrier already has a written declaration by the consignee concerning amendment of the contract of carriage (§ 5 of Article 25).
217. Accuracy and proper formalisation of the data on the consignment note has a direct meaning in limiting liability and determining the amount of compensation in a situation where there has been a wastage of goods during transportation (liability for shortage of mass of goods). Pursuant to § 3 of Article 43 of the SMGS, where several cargo packages are carried under a single consignment note, wastage shall be calculated separately for each package if its mass has been shown separately in the consignment note or can be ascertained by other means.
218. **Regulation arising from Appendix B (CIM UR) to COTIF.** Similar to SMGS, the proper filling out/formalisation of the CIM consignment note is primarily important for the consignor. Pursuant to Article 8 § 1 of the CIM UR, the consignor shall be responsible for all costs, loss or damage sustained by the carrier by reason of:
- the entries made by the consignor in the consignment note being irregular, incorrect, incomplete or made elsewhere than in the allotted space, or

- the consignor omitting to make the entries prescribed by RID.¹³⁰
219. The consignor shall be liable to the carrier for any loss or damage resulting from the absence or insufficiency of, or any irregularity in, such documents and information, save in the case of fault of the carrier (Article 15 § 2).
220. The carrier shall be liable for any consequences arising from the loss or misuse of the documents referred to in the consignment note and accompanying it or deposited with the carrier, unless the loss of the documents or the loss or damage caused by the misuse of the documents has been caused by circumstances which the carrier could not avoid and the consequences of which he was unable to prevent. Nevertheless any compensation payable shall not exceed that provided for in the event of loss of the goods (Article 15 § 3).
221. CIM UR also attaches importance to the indication on the consignment note that the transport is subject to the CIM Uniform Rules (Article 8 § 3). If there is no corresponding indication on the consignment note, then the carrier is responsible for all costs and losses incurred by the person entitled as a result of its failure to indicate it.
222. The carrier shall have the right to examine at any time whether the conditions of carriage have been complied with and whether the consignment corresponds with the entries in the consignment note made by the consignor (Article 11 § 1). If the consignment does not correspond with the entries in the consignment note or if the provisions relating to the carriage of goods accepted subject to conditions have not been complied with, the result of the examination must be entered in the copy of the consignment note which accompanies the goods, and also in the duplicate of the consignment note, if it is still held by the carrier. If the costs of the examination have not been paid immediately, they shall be charged against the goods (Article 11 § 2).
223. If the consignor has failed to make the entries prescribed by RID¹³¹ (transport of dangerous goods), the carrier may at any time unload or destroy the goods or render them innocuous, as the circumstances may require, without payment of compensation, save when he was aware of their dangerous nature on taking them over (Article 9).
224. Pursuant to Article 17 § 1, the carrier must hand over the consignment note and deliver the goods to the consignee at the place designated for delivery against receipt and payment of the amounts due according to the contract of carriage. The moment of taking possession of the consignment note also has an important role in recording the extinguishment of the right to modify the contract of carriage. The consignor's right to modify the contract of carriage shall be extinguished when the consignee has taken possession of the consignment note (Article 18 § 2). The consignee's right to modify the contract of carriage shall be extinguished when the consignee has taken possession of the consignment note (Article 18 § 4). Otherwise, the consignee shall have the right to modify the contract of carriage from the time when the consignment note is drawn up, unless the consignor indicates to the contrary on the consignment note (Article 18 § 3).
225. In order to modify the contract of carriage, a duplicate of the consignment note on which the modifications have to be entered must be produced to the carrier (Article 19 § 1). If the carrier implements the consignor's subsequent modifications without requiring the production of the duplicate of the consignment note, the carrier shall be liable to the consignee for any loss or damage sustained by him if the duplicate has been passed on to the consignee. Nevertheless any compensation payable by the carrier shall not exceed that provided for in the event of loss of the goods (Article 19 § 7).
226. The information on the consignment note also has importance with regard to the carrier's liability in the case of loss or damage to the goods during transport. If it has been indicated in the consignment note that goods were carried in open wagons pursuant to the General Conditions of Carriage or when it has been expressly agreed, the carrier is relieved of liability for the consequences resulting from such risk factor (open wagon). Also, for example, if the consignment should have been accompanied by an attendant and such agreement has been entered on the consignment note, the carrier is not liable for the consequences which the attendant was intended to avert (Article 23 § 3).

¹³⁰ Regulation concerning the International Carriage of Dangerous Goods by Rail (RID — Appendix C to the Convention (COTIF). Government of the Republic international agreement. — RT II, 8.2.2023, 3.

¹³¹ Regulation concerning the International Carriage of Dangerous Goods by Rail (RID — Appendix C to the Convention (COTIF). Government of the Republic foreign agreement. — RT II, 8.2.2023, 3.

227. The CIM UR contain a similar principle for successive carriers as in SMGS, ie if carriage governed by a single contract is performed by several successive carriers, each carrier, by the very act of taking over the goods with the consignment note, shall become a party to the contract of carriage in accordance with the terms of that document and shall assume the obligations arising therefrom. In such a case each carrier shall be responsible in respect of carriage over the entire route up to delivery (Article 26). However, under Article 50 of the CIM UR provides to carriers a right of recourse against each other in a relationship between carriers.
228. Pursuant to the CIM UR, certain standard compensation limits are prescribed (see, for example, Article 30 § 2 - compensation for loss of goods). The amount of compensation set out in the CIM UR can be changed by agreement of the parties by making a corresponding declaration on the consignment note (Articles 34 and 35).
229. Filing a claim against the carrier comes with the obligation to produce who with the claim who is filing the claim, and the consignment note or its duplicate (as an original or copy). On settlement of the claim the carrier may require the production, in the original form, of the consignment note, the duplicate or the cash on delivery voucher so that they may be endorsed to the effect that settlement has been made (Article 43).
230. The operations related to the CIM consignment note in the transport process also have importance in delimiting who and up to what point in time can bring actions against the carrier. The consignor has the right to bring actions arising from the contract of carriage until such time as the consignee has taken possession of the consignment note. In order to bring an action the consignor must produce the duplicate of the consignment note. As a result of the foregoing, the consignee has the right to bring an action against the carrier from the moment of taking possession of the consignment note. In order to bring an action the consignee must produce the consignment note if it has been handed over to him (Article 44).

3.2.3.3. Air transport (under the Montreal Convention)

231. As in rail and road transport, the proper filling out/ drawing up of the air waybill (or carriage document) and the addition of other necessary documents are of particular importance for the consignor of the goods, since the consignor is responsible for the correctness of the cargo data and is liable to the carrier for damage caused by incomplete or incorrect data (Articles 10 and 16). The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents (paragraph 2 of Article 16).
232. The consignor has fairly broad rights regarding the disposal of the cargo even during the carriage, including giving instructions to the carrier on the disposal of the cargo. Here it is important for the carrier to make sure that before disposing of the cargo on the instructions of the consignor, the carrier also has in their possession a copy of the consignor's air waybill. This is necessary, in particular, to ascertain whether the person giving the instruction still has the competence to give such instructions. The carrier has the right to require the issuance of a copy of the consignor's air waybill.¹³² If the carrier is not in possession of the waybill and still disposes of the cargo, the carrier will be liable for the damage caused to the person in whose possession the consignor's copy of the air waybill is. However, the carrier retains the right of recovery against the consignor (Article 12).
233. It is important to note that exceptions to the Convention may be provided for in respect of the disposal and delivery of cargo, but they must be entered in the air waybill (paragraph 2 of Article 15). It follows that all relevant circumstances in the carriage process must be reflected in the air waybill, because otherwise the relationship between the parties may be subject to a different regulation than if the air waybill were to reflect the data fully and correctly as the parties actually intended.
234. In the case of carriage of goods, the liability of the carrier in the event of destruction, loss, damage or delay of cargo is limited to the standard limit laid down in the Convention. The consignor may also deviate from

¹³² The requirement to provide an air waybill should, in particular, ensure that the owner of the cargo remains the original consignor and that the cargo has not changed owners in between.

this limit if the consignor has made a special declaration concerning the value of the cargo by handing over the consignment to the carrier.

3.2.3.4. Maritime transport (outside the scope of the eFTI)

235. **Bill of lading.** Together with the bill of lading, the rights to the goods are transferred. The bill of lading does also record certain stages in the transport process and the circumstances affecting the rights and obligations of the parties.
236. By issuing a bill of lading, the carrier acknowledges of having received the goods specified in the bill of lading and loaded them onto the ship (subsection 1 of § 38 and subsection 3 of § 39 of the Merchant Shipping Act). The carrier shall be liable for the loss of or any damage to the goods caused between the time the goods are accepted for carriage and the time the goods are delivered. Delivery means the transfer of direct possession of the goods or their storage at the port of destination in such manner that they are available to the consignee pursuant to the contract for the carriage of cargo or upon the occurrence of an obstacle in the delivery of the goods (§ 23 and § 25 of the Merchant Shipping Act).
237. A bill of lading is a document of title that gives its rightful holder the right to dispose of the goods and give instructions to the carrier during the transport process. If the bill of lading has been issued and the carrier complies with an instruction without demanding the presentation of the bill of lading, and it is later revealed that the instruction was given by a person who was not entitled to do so, the carrier must compensate the person entitled to give the instruction for the damage caused by compliance with the instruction, even if causing the damage was excusable. In such case, the limitation of the liability of the carrier are not applied. The delivery of a bill of lading is equivalent to the transfer of possession of the goods (subsections 3 and 5 of § 19, subsection 1 of § 38, § 46 of the Merchant Shipping Act).
238. The carrier is required to deliver the goods to the consignee only if the bill of lading is returned to the carrier and if the consignee provides a signature concerning the fact that delivery has been taken of the goods (§ 45 of the Merchant Shipping Act). The correctness of the data on the bill of lading is presumed (*prima facie* evidence), unless a notation has been made on the bill of lading about the possible incorrectness of the data or that the carrier did not have a reasonable opportunity to verify the correctness of the data (subsection 3 of § 41 and subsection 1 of § 42 of the Merchant Shipping Act). The possible liability of the carrier for damage depends on the foregoing. Namely, the carrier shall be liable to the lawful holder of the bill of lading for the issue of the bill of lading in accordance with the requirements. If the carrier fails to perform this obligation, the carrier shall compensate the lawful holder of the bill of lading for the damage that arises as a result of the lawful holder of the bill of lading relying on the accuracy of the information set out in the bill of lading (subsection 4 of § 40 of the Merchant Shipping Act).
239. The bill of lading determines the rights and obligations of the carrier and the consignee and the terms and conditions of the contract for the carriage of cargo can be made mandatory for the consignee by referring to them in the bill of lading (subsection 2 of § 38 of the Merchant Shipping Act). In case of a through bill of lading, the carriers may agree on joint and several liability and note it in the bill of lading correspondingly (subsection 3 of § 44 of the Merchant Shipping Act). In the case of a through bill of lading it must state that the carriage of the goods is to be performed by more than one carrier. The data entered in the bill of lading on the type and value of the goods are relevant for determining the limit of the carrier's liability in the event of loss or damage to the goods (§ 30 of the Merchant Shipping Act).
240. **Sea waybill.** By its nature, a sea waybill is a certificate of receipt of the goods by the carrier. When distinguishing a sea waybill from a bill of lading, one must consider in particular that a sea waybill does not confer on its holder any additional rights with regard to the disposal of the goods.
241. The sea waybill is subject to substantially overlapping requirements, both in terms of content and form, compared to the bill of lading, including the obligation to provide data and to make notations on the accuracy of the data. It is also *prima facie* evidence.
242. In the case of sea waybill, the shipper has the right to give additional instructions (eg change of consignee, destination) until the moment the consignee has submitted a claim for the delivery of the goods and paid freight (subsection 2 of § 47 of the Merchant Shipping Act). The same principle applies to other modes of transport as well.
243. Thus, in a nutshell, the legal importance of a sea waybill also entails the recording of important stages of transport (acceptance of goods for carriage, time delimitation of the delivery of instructions to the carrier)

and in delimiting the rights and obligations of the parties in situations where it is necessary to define liability for the damage caused.

3.2.4. Importance of freight transport documentation from the perspective of insurance contracts

244. Freight transport documentation is important with regard to insurance contracts, given that insurance coverage and its scope depend on it. Incomplete documentation might mean for the carrier that the insurance does not compensate for the damage caused, or compensates it to a lesser extent than the actual damage. In practice, the insurer continues to require documents on paper. The reason is the lack of digital exchange of data. ¹³³According to a study conducted in the Netherlands in 2021, a large number of insurers are not interested in developing interface-enabling technological solutions, given the costs involved and the fact that in practice, the drawing up of freight transport documents on paper continues to prevail.
245. Although there are no direct regulatory barriers to the use of electronic freight transport information, the problem is rather the lack of standardisation of the data. In the context of the eCMR, a 2021 survey of Dutch insurers noted that while insurers see valuable potential in accessing data, no concrete steps have been taken to do so. As a conclusion of this survey, at least on the basis of Dutch insurers, it can be said that insurers want to be informed of developments in the introduction and standardisation of eCMR and take action when the benefits outweigh the investment costs of implementation.¹³⁴

3.2.5. Summary

246. A carriage document does not replace a contract of carriage, but is evidence of: a) the conclusion of contract of carriage; b) the conditions applicable to the contract of carriage; c) acceptance of the goods; d) the documents transferred; e) participants in the carriage process. An electronic carriage document is deemed to be the evidentiary equivalent to a paper carriage document. There is therefore no need to regulate this matter further in national law. This is not a document of title, so there is no need to regulate its transferability. When it comes to approving a carriage document, various options are acceptable both for road, sea, rail and air transport: signature, stamp, electronic authentication.

3.3. Current situation from the perspective of the authority

3.3.1. Importance of freight transport documentation for supervision exercised by competent authorities

247. Pursuant to subsection 4 of § 2 of the Law Enforcement Act, state supervision is defined through the activities of a law enforcement agency, which, in conjunction with subsection 1 of § 6, consists of the obligation of the law enforcement agency to respond to a disturbance and the possibility of a disturbance. A disturbance according to subsection 1 of § 5 of the Law Enforcement Act is a violation of a legal provision within the area of protection of public order or of a person's subjective right, or damage to a legal right. State supervision is a special type of administrative procedure (subsection 2 of § 1 of the Law Enforcement Act), due to which the Administrative Procedure Act is applied taking into account the specifications arising from the Law Enforcement Act.
248. The exercise of state supervision as an intervention by the state authority requires a legal basis, ie the public authority is entitled to act only if the law gives it competence and authority, and the conditions and scope determined by law must be taken into account.¹³⁵ The exercise of state supervision is regulated by specific laws beside the Law Enforcement Act and the Administrative Procedure Act (subsection 3 of § 1 of the Law Enforcement Act).

¹³³ Data sharing coalition. Summary of research outcomes use case "Sharing freight transport data with Insurers". [Link](#).

¹³⁴ Ibid.

¹³⁵ Estonian Supreme Court Administrative Law Chamber judgments: 3-3-1-43-12, paragraph 19; 3-3-1-44-10, paragraph 26 and 3-3-1-41-00, paragraph 4.

249. The supervisory procedure carried out by the competent authorities in respect of legal acts falling within the scope of the eFTI Regulation relates generally to the following competences and powers:
- PBGB exercises state supervision based on the Road Transport Act over compliance with road transport documents, road safety, and road transport requirements (combined transport, cabotage operations, transport of dangerous goods);
 - ETCB exercises state supervision based on the Road Transport Act over compliance with the requirements for documents, road safety and transport of dangerous goods by road, as well as compliance with the requirements arising from the Waste Act (transboundary waste shipments, requirements for combined transport, dangerous goods);
 - The Transport Administration exercises supervision based on the Aviation Act over civil aviation security requirements;
 - The Environmental Board exercises supervision over shipment of hazardous waste and transboundary movement of waste.
 - CPTRA exercises state supervision over the transport of hazardous goods by rail.
250. Today, the competent authorities do not have a central database or data exchange environment for checking freight transport information, which in practice means that, in general, in order to check the freight documentation, it is necessary to stop the transport and carry out a visual inspection of the documentation. On the other hand, in the case of data submitted electronically, there is no possibility of their cross-use and compliance with the once-only principle, as digitisation differs in terms of different information requirements. Although today, it is still possible to use an electronic carriage document under the Road Transport Act, the obligation to make it available to an authority exercising state supervision is only established in the case of dangerous goods (subsection 11 of § 35 of the Road Transport Act) and in the case of transport of timber (Regulation No 84)¹³⁶.
251. Although electronic reporting of data is already required for certain shipments, they generally do not have central access or interface with other databases or platforms containing freight transport information. For example, § 64 of the Waste Act requires a separate consignment note for the transport of hazardous waste, which is prepared as a digital document in the database of consignment notes for hazardous waste. The database of consignment notes for hazardous waste is a database belonging to the state information system and its purpose is to monitor transport of hazardous waste in real time on the basis of the data of the consignment notes. According to the statutes of the database of consignment notes for hazardous waste¹³⁷, the database has an interface with the Electronic Maritime Information System (EMDE) for ship data, but as of today it does not allow interface with electronic freight transport information databases. The application for permits for transboundary movement of waste and the preparation of consignment notes are also carried out electronically through the KOTKAS database.

3.3.2. Freight transport documentation as a possible source of official statistics

252. The duty of Statistics Estonia is to produce official statistics pursuant to the provisions of the Official Statistics Act (clause 1 of subsection 2 of § 9 of the Official Statistics Act). To fulfil this duty an official statistical programme featuring a list of demographic, social, economic and environmental statistical activities is compiled each year for the following five years on the basis of national strategic development documents and international demand for statistics (subsection 1 of § 4 of the Official Statistics Act).
253. The official statistical programme regulating the activities of Statistics Estonia is approved annually by the Government of the Republic. The compilation of the list¹³⁸ of statistical work to be carried out by Statistics Estonia in 2024–2028, approved by the Government of the Republic, has been based mainly on the international need for statistics, which is governed by regulations at EU level.
254. For example, in the list of statistical work to be carried out by Statistics Estonia in 2024–2028, freight transport by road is also included. The legal basis for such statistics work arises from Regulation (EU) No

¹³⁶ The requirements for the transportation of timber, the deed of delivery and receipt of timber, the conveyance document and the form of the notice to be submitted to the Estonian Tax and Customs Board concerning the cutting right or timber sold or purchased. Minister of the Environment Regulation 21.12.2006 No 84. – RT I, 15.12.2017, 16.

¹³⁷ Establishment of the database of consignment notes for hazardous waste and the statutes of the database. Minister of the Environment Regulation 27.12.2016 No 77. – RT I, 13.7.2023, 39.

¹³⁸ List of statistical work to be carried out by Statistics Estonia in 2024–2028. [Link](#)

70/2012 of the European Parliament and of the Council on statistical returns in respect of the carriage of goods by road.¹³⁹ Pursuant to Article 1(1) of the Regulation, each Member State shall compile statistics for the Union on the carriage of goods by road by means of goods road transport vehicles which are registered in that Member State, and on the journeys made by such vehicles.

255. To perform statistical activities, Statistics Estonia does primarily use data collected in administrative records and databases as well as data generated or collected in the course of the activities of state and local government authorities, legal persons in public law and private law, if such data allow the performance of statistical activities complying with the quality criteria of official statistics (subsection 1 of § 29 of the Official Statistics Act).
256. The right of Statistics Estonia to request data from the respondent arises from § 28 of the Official Statistics Act. Namely, Statistics Estonia as a producer of official statistics has the right to request respondents to submit in due time true and complete data to the extent of a questionnaire prepared under the official statistical programme and published on the website of Statistics Estonia (subsection 1 of § 28 of the Official Statistics Act). Respondents may be legal persons, branches of foreign companies registered in Estonia, state and local government authorities, sole proprietors, natural persons, enforcement agents, notaries and sworn translators (subsection 1 of § 5 of the Official Statistics Act). Statistics Estonia also has the right to request controllers of databases to submit the data collected in the administrative records and databases (subsection 4 of § 28 of the Official Statistics Act).
257. Today, Statistics Estonia does not have the possibility to request information from a central database to produce official statistics in the field of freight transport. Data is obtained from economic operators mainly based on a sample or, as a general rule, in the framework of annual data queries.

3.3.3. The importance of freight transport documentation in carrying out rescue operations

258. Freight transport documentation can hold important information when planning rescue operations in the event of an accident. As an example, which agencies and with what capabilities to involve in rescue operations depends on the type and quantity of the cargo being transported. Emergency notifications are processed by the Emergency Response Centre on the basis of the Rescue Act¹⁴⁰. The functions of the Emergency Response Centre are:
- receipt of an emergency call to the emergency phone number 112 or information received in another manner, ascertainment of need for assistance, assessment of risk, dispatch of the Rescue Board for the performance of rescue work and disposal of explosive ordnance, dispatch of emergency medical staff for the provision of emergency medical care, and forwarding of information in the competence of the police to the Police and Border Guard Board for further processing (hereinafter processing of emergency notification);
 - processing of help and information notifications, including provision of the crisis information service to state and local authorities, considering the competence and authorisation of the Emergency Response Centre.
259. Detailed rules for the processing of emergency notifications are established by a regulation of the Minister of Internal Affairs.¹⁴¹ Pursuant to subsection 1 of § 5 of the Regulation, in order to ascertain the need for assistance, the person processing the notification must collect data on the incident, the location of the incident, the number of persons in need of help, their state of health and the person reporting the need for assistance. Pursuant to subsection 2 of § 5 of the Regulation, in order to dispatch assistance, the person processing the notification must assess the risk to health, life, property and the environment. The risk assessment is based on standard cases and guidelines approved by the Rescue Board, PBGB and the Health Board to implement the necessary measures to deal with the incident. Pursuant to subsection 7 of

¹³⁹ Regulation (EU) No 70/2012 of the European Parliament and of the Council of 18 January 2012 on statistical returns in respect of the carriage of goods by road. – OJ L 32, 3.2.2012, p. 1–18.

¹⁴⁰ Clause 1 and clause 1¹ of subsection 1¹ of § 5 of the Rescue Act.

¹⁴¹ Procedure for processing emergency notifications and the requirements set for the functioning of the processing of emergency notifications Minister of the Interior Regulation 13.6.2017 No 26 – RT I, 17.12.2022, 10.

§ 5 of the Regulation, the person processing the notification will use, if necessary, additional relevant sources of information in order to obtain information to assess the threat.

260. To process emergency notification, the Emergency Response Centre uses the database of emergency notifications and help and information notifications (**HKSOS**).¹⁴² HKSOS consists basically of three large parts:

- the data on the location of the incident, which comes when positioning the caller's location and which is specified by the call-taker during the call;
- a questionnaire by means of which the call-taker gives an initial assessment of the threat of the incident, ie determines the degree of severity on which it depends how many helpers are needed and how quickly they must be dispatched;
- the GIS-112 digital map, which shows the caller's location, ambulance, rescue and police cars in real time, and with the help of which the system calculates the fastest and most adequate helpers to respond to the incident.¹⁴³

261. In addition to 112 calls, automatically transmitted fire alerts, calls from the eCall or automatic emergency notification system¹⁴⁴ initiated from the vehicle, and emergency notifications received via SMS will reach the information system. How many and which helpers to involve is provided by the information system. For example, the system determines that it is necessary to send both an ambulance and the police to a specific traffic accident in which people have been injured.¹⁴⁵

262. The data to be entered in HKSOS are described in the statutes of database of emergency notifications and help and information notifications (HKSOS Statutes) and generally includes the following types of data:

- data concerning persons who have submitted an emergency notification
- data concerning persons in need of help the persons involved in the event
- data concerning emergency notifications
- data concerning operations related to processing an emergency notification
- data concerning persons using the SMS-112 message service
- data concerning the processors of emergency notifications

263. HKSOS data providers are described in § 6 of the HKSOS Statutes. As an example, the chief processor of the motor register provides to HKSOS data of the vehicle and the owner, co-owner, authorised user or driver of the vehicle in order to obtain information related to the incident with the participation of the police.

264. The chief processor of the database is the Emergency Response Centre. The authorised processors of the database are PBGB, the IT and Development Centre at the Estonian Ministry of the Interior and the State Infocommunication Foundation (**RIKS**). The database is interfaced with the data exchange layer of information systems X-tee.

265. The inclusion of freight transport information in the regulation on the database of emergency notifications and help and information notifications could be an important input for providing hazard assessments, which would allow for a faster response to accidents with more appropriate forces.

3.3.4. Importance of freight transport documentation from the perspective of maintaining security

266. Freight transport documentation is important in maintaining security. The difference between maintaining security and protecting public order is that while protecting public order involves engaging in a specific activity, the security authority deals with vague potentials for damage and harm that may become dangerous. Estonian Internal Security Service, as a security authority, views that besides the energy and

¹⁴² The statutes of the database of emergency notifications and help and information notifications. §subsection 1 of § 1 of the Minister of the Interior Regulation 21.12.2016 No 36 – RT I, 17.12.2022, 15.

¹⁴³ Website of the Emergency Response Centre. Information system for processing emergency notifications. [Link](#).

¹⁴⁴ The corresponding system is mandatory for new passenger cars and vans that are on sale in the European Union from 31 March 2018.

¹⁴⁵ Ibid.

IT sectors the transport sector, including the transit sector, continues to be one of the sectors of economic activity with the greatest security risk, which can be exploited to pose a threat to national security.¹⁴⁶

267. Pursuant to subsection 1 of § 2 of the Security Authorities Act, the objective of the activity of security authorities is to ensure national security by the continuance of constitutional order through the application of non-military means of prevention. Accordingly, the Estonian Internal Security Service as a security authority, is responsible, inter alia, for combating of those criminal offences the pre-trial investigation of which is within the competence of the Estonian Internal Security Service (clause 3 of § 6 of the Security Authorities Act). For example, the Estonian Internal Security Service's investigative jurisdiction includes attacks against flight safety (§ 112 of the Penal Code), illegal carriage of strategic goods or illegal provision of services relating to strategic goods (§ 421¹ of the Penal Code) and carriage of prohibited strategic goods or provision of services relating to prohibited strategic goods (KarS § 421² of the Penal Code).
268. The prevention and combating of these criminal offences is possible for the purpose of ensuring security if the Estonian Internal Security Service also has access to the freight transport documentation. Accordingly, pursuant to § 60¹ of the Aviation Act, the Estonian Internal Security Service has been also given the authority and competence to exercise state supervision over the prevention and combating of attacks directed against aircraft and aviation safety upon performance of functions arising from the Security Authorities Act for the purpose of combating a criminal offence.
269. To ensure security, freight transport information in aviation is particularly important to the Estonian Internal Security Service. This includes the air waybill or declaration, which allows the service to gather information about the consignments on board the aircraft. This process is essential for preventing and combating aviation-related crimes and for conducting pre-trial investigations.

3.3.5. Importance of freight transport documentation from the perspective of enforcing international sanctions

270. Freight transport documentation is important from the perspective of implementing international sanctions. Pursuant to subsection 3 of § 3 of the International Sanctions Act, international sanctions may ban the entry of a subject of an international sanction in the state, restrict international trade and international transactions, and impose other prohibitions or obligations. Trade restrictions are aimed at restricting trade relations with a particular country or the subject of a sanction. For example, exports of luxury goods or imports of precious metals to or from a country subject to an international sanction may be restricted.
271. Pursuant to clause 4 of subsection 3 of § 11 of the International Sanctions Act, the competent authority in the case of a ban on the import and export of goods is the Tax and Customs Board. ETCB inspects goods at the border, ie enforces international sanctions related to the import and export of goods, carrying out the necessary actions for this purpose under the Customs Act and the Customs Code^{147, 148}
272. Pursuant to § 8 of the **Customs Act**, in order to assess a threat of violation of the requirements for goods entering or leaving Estonia if such goods are subject to prohibitions and restrictions and to protect the financial interests of the Union, the customs authorities have the right to obtain, on the basis of a reasoned request, data free of charge from a state database concerning special permits and register entries related to the transport of goods as well as concerning logistics, vehicles and persons. The corresponding provision grants ETCB the right to free data, but not access to the state database.¹⁴⁹ In other words, the way of obtaining data depends on the technical capabilities of the database.¹⁵⁰ The provision also provides the basis for obtaining data, which is the assessment of the threat of violation of the requirements for goods entering or leaving Estonia if such goods are subject to prohibitions and restrictions and protection of the financial interests of the Union.¹⁵¹ The need to obtain data must be justified to the holder of the national database.¹⁵²

¹⁴⁶ Website of the Estonian Internal Security Service. Economic security. [Link](#)

¹⁴⁷ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code. – OJ L 269, 10.10.2013, p. 1–101.

¹⁴⁸ International Sanctions Act 721 SE. Explanatory memorandum, p 24. [Link](#)

¹⁴⁹ Customs Act 374 SE. Explanatory memorandum, p 11. [Link](#)

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Ibid.

273. The concept of assessment of threat specified in § 8 of the Customs Act is defined within the meaning of § 5 of the Law Enforcement Act and it corresponds in substance to the concept of risk management used in the Customs Act.¹⁵³ Risk management within the meaning of the Union Customs Code is the systematic identification of risk, including through random checks, and the implementation of all measures necessary for limiting exposure to risk (Article 5(25) of the Customs Code). Thus, freight transport documentation is important for the ETCB in order to implement, including by means of random checks, and the necessary measures to reduce all risk factors. In other words, the freight transport information would help the ETCB to prevent violations of international sanctions.
274. Obtaining data on freight transport logistics may be important for the enforcement of an international sanction, for example due to the fact that the ETCB has intensified customs controls on exported goods. For example, relying on Article 15 of the Customs Code and § 61 of the Customs Act, when exporting goods, the ETCB also requires proof that the transport of sanctioned goods through the territory of Russia or Belarus is only part of the journey to a destination in a third country.¹⁵⁴ The ETCB considers as appropriate evidence, inter alia, transport contracts covering the entire transport to the destination, the confirmation provided by the consignor of the final consignee, the activity of the final consignee and the place of final use.¹⁵⁵
275. Given that ETCB inspects goods at the border, ie enforces international sanctions related to the import and export of goods, carrying out the necessary actions for this purpose pursuant to the Customs Act and Customs Code, pursuant to § 8 of the Customs Act, the ETCB is also entitled to receive data free of charge from the state database in order to prevent violation of international sanctions. Consequently, freight transport documentation is also important for the enforcement of international sanctions.

3.3.6. Importance of freight transport documentation in the prevention of tax fraud and illicit traffic

276. Freight transport documentation is important in preventing tax fraud and illicit traffic. Tax fraud means a failure to submit information or submission of incorrect information to tax authorities for the purpose of reduction of an obligation to pay a tax or obligation to withhold (§ 389¹ of the Penal Code). Illicit traffic means the evasion of customs control, failure to declare goods or cash, or use of any other fraud while carrying goods or cash to be declared across the frontier of the customs territory of the European Union (§ 391 of the Penal Code). Supervision is exercised on an ongoing basis to prevent tax fraud and illicit traffic. In doing so, tax fraud and illicit traffic can also be detected and prevented through documentary inspection.
277. For example, it has been highlighted that one of the possible preventive strategies in the case of illicit traffic is the implementation of the e-CMR project in the work of the ETCB.¹⁵⁶ In order to effectively prevent illicit traffic, the ETCB could obtain through the e-CMR project documents relating to the contents of the cargoes transported.¹⁵⁷ If the system were to be compatible with the ANTS border crossing system and with the registers in use by the ETCB, PBGB and the ETCB would have been granted access to documents and information, which would make it possible to avoid stopping vehicles on the road and to detect illicit traffic.¹⁵⁸ Thus, freight transport documentation is very important for the prevention of smuggling.
278. Tax fraud can also be detected and prevented through documentary inspection. The ETCB has highlighted that, among other things, it is important to check that the documentation related to the transaction is correctly drawn up in order to avoid falling into the chain of tax frauds.¹⁵⁹ In this regard, ETCB is of the opinion that the correct filling out of accompanying documents for transactions is one of the important ways of verifying the goods.¹⁶⁰ Thus, it is important to check that, for example, dates, places of departure and

¹⁵³ Ibid, p 10.

¹⁵⁴ ETCB website. Customs clearance in the context of the war in Ukraine. [Link](#)

¹⁵⁵ Ibid.

¹⁵⁶ K. Kaasma. Effective prevention of smuggling in Estonia. Thesis. Estonian Academy of Security Sciences. Tallinn 2023, p. 39.

¹⁵⁷ Ibid., p. 32.

¹⁵⁸ K. Kaasma. *op cit*, p 32.

¹⁵⁹ ETCB website [Link](#)

¹⁶⁰ Ibid.

destination, vehicle numbers, details of the consignor, consignee and carrier and a description of the goods are correctly indicated in the waybills and consignment notes, CMRs, certificates of goods and invoices.¹⁶¹

279. By checking the relevant documents, it is possible to establish whether some information has not been provided to the tax authority or false information has been provided concealing the tax or withholding obligation. Thus, instruments of delivery and receipt, transport documents, etc of goods are important for identifying the circumstances related to transactions and detecting tax fraud.

3.3.7. Summary

280. Freight transport documentation is important for the performance of a number of public duties, including not only the supervisory tasks, performed by the eFTI competent authorities. Freight transport information is important as a source of national statistics, in planning and carrying out rescue operations, ensuring national security, as well as in combating tax fraud and smuggling. Access to freight transport information would make it possible to carry out statistical work on the transport of goods by road, to involve other necessary agencies in rescue operations, to prevent the commission of aviation related crimes or to carry out pre-trial investigations. Access to such information would also aid in preventing breaches of international sanctions and tax fraud and smuggling. Today, there is no unified electronic access to this data. Access to data would make it possible to collect information more quickly, in larger quantity, to provide more accurate assessments of situations and thus to carry out public tasks with a higher quality. For example, it is not ruled out that in the future, goods under sanction are identified automatically via an eFTI platform, but at the moment this functionality is not yet foreseen.

3.4. Current situation from the perspective of the platform developer

3.4.1. Technical solutions for data exchange

281. From the point of view of platform developers, the biggest challenge is the different level of development of digitalisation across different modes of transport.

282. In road transport, accompanying documents in paper form are mainly in use. And although eCMR is accepted, it is not in use. There is a common misconception that information in PDF-file format¹⁶² is digital information. The backwardness of road transport in this area is also due to the fact that there are many small players on the market and the capacity to implement digital solutions is significantly lower than in other more capital-intensive modes with fewer operators.

283. The carriage document in the maritime transport is the bill of lading (BoL), which also has an electronic alternative, the e-bill of lading (eBOL), the introduction of which has brought significant savings: the eBOL processing fee is three times lower than the for the standard, ie paper BoL. Large market players have their own systems and platforms, eg the Mediterranean Shipping Company (MSC¹⁶³) uses the WaveBL platform¹⁶⁴ created by an Israeli economic operator.

284. Electronic solutions are also used in rail transport. Already today, about 75% of freight transport information in Estonia is transmitted digitally (sales system KVIS, Livesoft).¹⁶⁵ The exchange of information on the basis of SMGS implies the transmission of data on both goods and wagons. A challenge regarding security is the fact that under SMGS, information flows through Russia. This is especially problematic when it comes to goods of strategic importance. The limited capacity of the platform is also a problem when transmitting SMGS information (eg there are issues with entering information on multiple carriers). It should be emphasised here that the SMGS is not currently within the scope of the eFTI, ie the eFTI Regulation is narrowly concerned with COTIF, which is not implemented in practice in Estonia, but which is expected to change in connection with the establishment of Rail Baltic.

¹⁶¹ Ibid.

¹⁶² Portable Document Format.

¹⁶³ Mediterranean Shipping Company [Link](#)

¹⁶⁴ WaveBL website [Link](#)

¹⁶⁵ Such an assessment follows from an interview with AS Operail conducted on 8 February 2024.

285. A prerequisite for the one-time submission of data is the technical compatibility of different systems. However, when transferring data related to different modes of transport, a great challenge is that even if digital platforms are used, a lot of information will still have to be entered manually because there are no interface options between different systems. Although domestic data could be transmitted over X-tee, the X-tee solution could not be used between platforms in other Member States. As one option, the data would be transmitted in the eDelivery system.
286. There has been sufficient preliminary work in Estonia to create and prepare eFTI platforms for launch and, during the analysis, with the support of the e-waybill measure¹⁶⁶ supported by the Estonian Business and Innovation Agency (EIS), the existing e-waybill services have been further developed and six platforms have been tested against the eFTI Gate pilot solution. All platforms have been developed taking into account the requirements of the eFTI Regulation and the known architectural, technical and functional requirements.

3.5. Overview of content and formal requirements for freight transport documentation

3.5.1. Road transport

287. **Paper consignment note.** The CMR lays down only the minimum composition of the data that must be present on the consignment note, but does not establish a specific form, template, etc. Thus, the parties to the transaction may adjust¹⁶⁷ the formal requirements of the consignment note at their discretion, provided that it nevertheless contains at least the information referred to in Article 6, paragraph 1, of the CMR. As Article 6, paragraph 1, of the CMR only provides for a minimum composition of the data, the parties may add additional data as appropriate. Pursuant to Article 5 of the CMR, consignment notes on paper must be made out in numbered¹⁶⁸ three original copies signed by both the sender and the carrier. These signatures may be printed or replaced by the stamps of the sender and the carrier if the law of the country in which the consignment note has been made out so permits. The first copy is handed to the sender, the second will accompany the goods and the third is retained by the carrier.
288. It should be stressed that the consignment note must contain the appropriate information if dangerous goods are transported (Article 6, paragraph 1 (f)). More detailed rules for the carriage of dangerous goods are contained in the Agreement concerning the International Carriage of Dangerous Goods by Road (ADR)¹⁶⁹.
289. **Electronic consignment note (eCMR).** The composition of the data on the eCMR is identical to that of the paper consignment note (Article 4, paragraph 1 of the Additional Protocol to the CMR). There is understandably no requirement for the eCMR to have three originals, but all entitled persons must have access to the data provided in electronic consignment note (Article 3, paragraph 3). The eCMR must also ensure the integrity of the particulars contained therein from the time when it was first generated in its final form. The integrity of particulars is maintained when the particulars have remained complete and unaltered (Article 4, paragraph 2, of the Additional Protocol to the CMR).
290. The eCMR is authenticated by the parties to the contract of carriage by means of a reliable electronic signature that ensures its link with the electronic consignment note. The electronic consignment note may also be authenticated by any other electronic authentication method permitted by the law of the country in which the electronic consignment note has been made out (Article 3, paragraphs 1 and 2, of the Additional Protocol to the CMR). Thus, the eCMR allows for several different options for authentication. In practice, however, the issue is the lack of international electronic data exchange platforms and the existence of a large number of market participants with different (digital) capabilities, which leads to the predominant use of paper carriage documents.

¹⁶⁶EAS, e-veoselehe arendamise toetus. [Link](#)

¹⁶⁷ Mahl, R. *op cit*, p 172.

¹⁶⁸ Ibid.

¹⁶⁹ Agreement Concerning the International Carriage of Dangerous Goods by Road (ADR). Government of the Republic foreign agreement 30.9.1957. — RT II, 30.6.2023, 1.

3.5.2. Rail transport

3.5.2.1. SMGS consignment note

291. **SMGS consignment note** (outside the scope of the eFTI Regulation). Pursuant to § 4 of Article 15 of the SMGS, the consignment note may be completed as a paper (paper consignment note) or an electronic (electronic consignment note) document.¹⁷⁰

SMGS paper consignment note

292. The minimum mandatory composition of the data to be indicated on the consignment note is provided for in § 1 of Article 15 of the SMGS. Since, in practice, it is often necessary to add additional data to the consignment note, § 2 of Article 15 provides for the composition of additional particulars, which in certain cases must also be added to the consignment note.
293. The consignment note must certainly show information whether dangerous goods are being transported. When transporting dangerous goods, cargo information is indicated in accordance with Annex 2 'Rules for Transportation of Dangerous Goods' to SMGS (Article 9)¹⁷¹.
294. Other data relevant to the transport process may also be included on the consignment note, such as instructions for when an obstacle should arise in the transport process. Pursuant to Article 28 § 5 of the SMGS, if the consignor has given instructions in the consignment note as to what to do with the goods in the event of impediments to carriage and delivery of the goods, the carrier shall act accordingly. If the carrier decides that such instructions cannot be carried out, the carrier will adhere to the provisions of § 1 to 3 of Article 28 of the SMGS. The consignor must also indicate on the consignment note the person paying for the transport service if this obligation has been transferred to a third party (§ 2 of Article 31).
295. The form of the consignment note is established under Annex 1 to the SMGS.¹⁷² The SMGS stipulates, on the one hand, that the consignment note must be in either Chinese or Russian and, in addition, have a translation in a third language, but on the other hand, by mutual agreement between the participants in the carriage, it allows the consignment note to be completed in any other language (§ 3 of Article 15). Thus, there approach to the language being used is flexible.
296. As with the CMR, the consignor must, in accordance with § 1 of Article 22 of the SMGS, the consignor must attach to the consignment note the accompanying documents necessary for the completion of customs and other administrative formalities over the entire route. These documents shall refer only to those goods which appear in the consignment note in question. If the consignor does not attach to the consignment note a document that is necessary for the completion of administrative formalities and send it to the relevant administrative inspection body, it shall include information about this in the consignment note.
297. Accompanying documents which the consignor has attached to the consignment note shall be listed by the consignor in the consignment note. If the consignor has not complied with the provisions of this paragraph, the contractual carrier shall refuse to accept the goods for carriage (§ 4 of Article 22 of the SMGS). It follows from the foregoing that the prerequisite for the commencement of rail transport services is in fact a properly drawn up consignment note, which undoubtedly gives a significantly greater weight to the consignment note in the case of rail transport than, for example, road transport.

SMGS electronic consignment note

298. In the case of a SMGS electronic consignment note, the same principles apply as for a paper consignment note with the distinction that everything takes place in an electronic environment. The use of an electronic consignment note also requires that all parties to the transport process have agreed and are able to carry out the necessary operations in an electronic environment (access to data, authentication, etc).

¹⁷⁰ Selguse mõttes olgu siinkohal märgitud, et SMGS-s kasutatakse erinevaid termineid saatedokumentide kohta: saateleht, saatekiri. The term 'consignment note' in accordance with Article 15 of the SMGS is used to mark the SMGS accompanying document throughout the text.

¹⁷¹ Annex 2 to the Agreement on International Railway Freight Communications (SMGS). Rules for Transportation of Dangerous Goods [text as at 1 July 2021]. Government of the Republic international agreement. — RT II, 9.9.2021, 2.

¹⁷² Annex 1 to the Agreement on International Railway Freight Communications (SMGS). [Link](#)

3.5.2.2. CIM ¹⁷³ (COTIF) consignment note

299. The CIM consignment note may be in both paper and electronic form (§§ 2, 3 and 9 of Article 6).

CIM paper consignment note

300. Pursuant to Article 6 § 2 of the CIM UR, the contract of carriage must be confirmed by a consignment note which accords with a uniform model. However, the absence, irregularity or loss of the consignment note shall not affect the existence or validity of the contract which shall remain subject to these Uniform Rules. The uniform model is established by the relevant international associations together with the bodies having competence for customs matters in the Member States in accordance with Article 6 § 8.

301. The composition of the data in the consignment note is regulated by Article 7 of the CIM UR:

- § 1 sets out mandatory minimum data;
- § 2 sets out additional data, where applicable;
- § 3 provides for the options for the parties to add further particulars.

302. It should be stressed that the accompanying document must contain the appropriate information if dangerous goods are transported (Article 7 § 1 paragraph h). More detailed regulations concerning the carriage of dangerous goods are contained in Appendix C to COTIF (RID)¹⁷⁴.

303. The consignment note shall be signed by the consignor and the carrier. The signature can be replaced by a stamp, by an accounting machine entry or in any other appropriate manner (Article 6 § 3). A duplicate of the consignment note is also made. The carrier must certify the taking over of the goods on the duplicate of the consignment note in an appropriate manner and return the duplicate to the consignor (Article 6 § 4).

304. Article 6 § 6 of the CIM UR provides that a consignment note must be made out for each consignment. In the absence of a contrary agreement between the consignor and the carrier, a consignment note may not relate to more than one wagon load.

305. As with the CMR and SMGS, the consignor must, in accordance with the CIM UR, attach to the consignment note the documents necessary to complete the formalities required by the customs or other administrative authorities before delivery of the goods, or make them available to the carrier and furnish him with all the requisite information (Article 15 § 1). The carrier shall not be obliged to check whether these documents and this information are correct and sufficient. The consignor shall be liable to the carrier for any loss or damage resulting from the absence or insufficiency of, or any irregularity in, such documents and information, save in the case of fault of the carrier (Article 15 § 2).

CIM electronic consignment note

306. Article 6 § 9 of the CIM UR sets out that the consignment note and its duplicate may be established in the form of electronic data registration which can be transformed into legible written symbols. The paper and the electronic consignment note have equivalent legal force provided that the procedures used for the electronic registration and treatment of data are functionally equivalent, particularly so far as concerns the evidential value of the consignment note represented by those data.

3.5.3. Air transport

3.5.3.1. Air transport (Montreal Convention)

307. The air waybill may be in both paper and electronic form (Article 4). In addition to the Montreal Convention, the content and form of accompanying documents are also governed by the Chicago Convention, which regulates the content and form of the cargo manifest (Article 29 (g) of and Annex 9 to the Chicago Convention). For the sake of clarity, it should be clarified here that the air waybill and the cargo manifest have different meanings and purposes. In a very general way, it can be said that the air waybill is the basis for recording various stages and circumstances in the transportation process (acceptance of the goods for transport, departure and destination of the goods, etc), and the cargo manifest concerns detailed data, in

¹⁷³ The corresponding Appendix to COTIF regulates international rail freight transport in Western Europe.

¹⁷⁴ Regulation concerning the International Carriage of Dangerous Goods by Rail (RID — Appendix C to the Convention (COTIF). Government of the Republic international agreement. — RT II, 8.2.2023, 3.

particular, about the goods themselves (for the purpose of carrying out customs formalities, health protection, etc). The Chicago Convention also supports the electronic circulation of documents/data. It is important to note that the annexes to the Chicago Convention are updated regularly, so it is important to adhere to the version currently valid.

308. According to Annex 18 to the Chicago Convention, the shipper must provide the operator with all the necessary documents for the carriage of dangerous goods, reflecting all the particulars of the goods prescribed in Annex 18.

Air waybill (on paper)

309. The air waybill must include the following information:

- (a) places of departure and destination;
- (b) place of stay (if any);
- (c) weight of the consignment.

310. It follows from the foregoing that the minimum amount of data specifically required by the Convention is significantly lower than in the case of road and rail transport. However, in accordance with Annex 9 to the Chicago Convention, additional particulars of the goods must be provided in the air waybill. It may be necessary to include other documents in the air waybill (eg for customs procedures, Article 6 and Article 16). Responsibility for the availability of all necessary documents lies with the consignor and the carrier is generally not liable for these deficiencies (Articles 10 and 16). The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents (paragraph 2 of Article 16).

311. The air waybill shall be drawn up by the consignor in three original copies. The first copy has an indication of the 'to the carrier' and the signature of the consignor. The second copy has an indication 'to the consignee' and the signatures of the consignor and carrier. The third copy is signed by the carrier, who hands over the air waybill to the consignor after the cargo has been received. The signature of the carrier and the consignor may be given by signature stamp or printed (Article 7).

Cargo receipt (electronic air waybill)

312. We explained above that, in accordance with Article 4 of the Montreal Convention, a cargo receipt is issued if the air waybill data are on another medium (eg in electronic form). As for the content, the information in electronic form must contain exactly the same volume of data. In practice, this is expressed in such a way that access to the other required information must be guaranteed through the cargo receipt. Otherwise, the same principles apply as to the air waybill (the consignor is responsible for the completeness and correctness of the data, etc).

3.5.3.2. IATA Resolution 672 (implementation of the E-Air Waybill)

313. We explained above that in the case of IATA, it is a representative organisation of market participants in the aviation sector. Thus, it is not an organisation representing countries that can establish interstate and binding international agreements. The parties to the IATA agreements¹⁷⁵ are airlines which have voluntarily submitted themselves to the agreements developed by IATA. In the hierarchy of international law, IATA agreements cannot therefore be in conflict with international conventions or take precedence over them.

314. The above must also be taken into account with regard to the applicability of the IATA E-Air Waybill Agreement — it applies only to market participants who are party to the relevant agreement and do not affect the content of international conventions.

315. The purpose of the agreement is to create the possibility of full electronic data exchange and not to impose new substantive rights or obligations in comparison with existing IATA agreements. The freight forwarder continues to have primary responsibility for the accuracy and completeness of the cargo data (Article 3.3). The prerequisite for the use of the IATA electronic waybill is that the carrier and the freight forwarder are able to exchange all necessary information electronically. The carrier has the overriding right to decide

¹⁷⁵ In general, IATA agreements (resolutions) are charged for and are not freely available. IATA resolutions, standards and guidance materials can be found here: [Link](#)

whether electronic data exchange with the freight forwarder is possible or not, ie whether or not the electronic air waybill applies (Article 3.1).

316. The parties have the competence, inter alia, to agree on the type of authentication they consider sufficient for the confirmation and transmission of electronic data (Articles 3.1 and 3.2).
317. Electronic data exchange takes place in a form and in ways standardised by IATA (Articles 2.5, 2.6 and 4.1). IATA has developed a standard for this purpose - Cargo Electronic Data Interchange Message Standards, IATA resolution 670.¹⁷⁶
318. The IATA Electronic Air Waybill Agreement also stresses that electronically presented data must be readily retrievable and may be printed in human readable form so that they can be submitted on paper (Article 5.2). This may be necessary, in particular, in situations where paper documents are required by national regulations or international agreements (Article 1.2). This necessity must also be taken into account in the case of insurance companies (Article 1.6).

3.5.4. Maritime transport (outside the scope of the eFTI)

3.5.4.1. Bill of lading (on paper)

319. After receiving goods, the carrier shall, at the request of the shipper, issue a bill of lading. The shipper may demand that the bill of lading be issued in several original copies (subsection 1 of § 39 of the Merchant Shipping Act). The minimum data composition of the bill of lading is provided for in subsection 1 of § 40 of the Merchant Shipping Act. As a rule, a bill of lading is issued when the goods have already been loaded onto the ship, but a situation where the bill of lading is issued before the goods are loaded is also possible. In this case a notation is subsequently made in the bill of lading to show that the goods have been loaded onto that ship (subsection 1¹ of § 40 of the Merchant Shipping Act). In order to issue a bill of lading, the carrier has the right to require the shipper to provide the necessary data (subsection 2 of § 40 of the Merchant Shipping Act).
320. The carrier shall be liable to the lawful holder of the bill of lading for the issue of the bill of lading in accordance with the requirements. The carrier must be careful when entering data on the bill of lading in order to avoid possible liability for damage that may arise from the inaccuracy of the data (subsection 4 of § 40 of the Merchant Shipping Act).
321. In particular, the carrier must make sure that the data includes: the marking and description of the goods according to the type, characteristics and quantity, weight or measurements of the goods (clause 7 of subsection 1 of § 40 of the Merchant Shipping Act). These data are transmitted to the carrier by the shipper and the carrier must enter them in exactly the same form as they were communicated in writing by the shipper. If the carrier has reasonable doubts that the information communicated by the shipper does not correspond to reality or that the carrier cannot reasonably verify the accuracy of the data, a reasoned statement to that effect must be made in the bill of lading. In the case of goods which are delivered to the carrier for carriage in a container, tank or another similar closed article of transport, the notation '*sisu tundmatu*' [contents unknown] may be entered in the bill of lading (§ 41 of the Merchant Shipping Act).
322. Before the goods are delivered to the carrier, the shipper must also place the documents and information necessary for the loading and unloading of the goods and for conducting other formalities related to carriage, in particular for customs clearance, at the disposal of the carrier. The carrier may refuse to commence carriage or may unload the goods if the documents delivered or the information communicated to the carrier are inaccurate or incomplete or if the documents are not delivered or the information is not communicated in due time. The carrier may demand that expenses incurred due to unloading be reimbursed. (Subsection 1 and 2 of § 10 of the Merchant Shipping Act).
323. It is important to add that in the case of dangerous goods, the shipper must notify the carrier about the nature of the danger in due time and in a format which can be reproduced in writing. Where the carrier has not been informed of the nature of the danger or has not become aware thereof in any other manner, the carrier may, at a place chosen by the carrier, unload the dangerous goods, store them, carry them back and, if necessary, destroy them or render them harmless. The carrier may demand that the shipper

¹⁷⁶ The documents are available for a fee. [Link](#)

reimburse the necessary expenses that have been incurred to that effect and the carrier is not required to compensate the shipper for any damage arising from application of the precautions (subsections 1 to 3 of § 8 of the Merchant Shipping Act).

324. If the carriage of the goods is to be performed by more than one carrier, a through bill of lading is issued. The person who issues a through bill of lading shall ensure that a bill of lading issued for a part of the carriage by the carrier participating in the carriage enunciates that the goods are carried according to the through bill of lading. In case of a through bill of lading, the carriers may agree on joint and several liability and note it in the bill of lading correspondingly (§ 44 of the Merchant Shipping Act).
325. The carrier shall sign the bill of lading. The bill of lading may be signed by the master or a person authorised therefor by the carrier or by another person permanently acting for the carrier who performs such duties (subsection 3 of § 40 of the Merchant Shipping Act).

3.5.4.2. Bill of lading in electronic form

326. In international marine shipping, paper bills of lading are still common to this day, although parties to international trade are actively looking for ways to introduce electronic bills of lading. The obstacle is not so much a lack of technology as a lack of harmonisation of solutions at national and international level, acceptance by international organisations and also acceptance by insurers and banks. For these reasons, a common global or regional e-environment standard for electronic bills of lading has not yet been developed. It can be assumed that one of the most important obstacles would be removed if consensus was found with insurers and banks in the acceptance of the electronic bill of lading, because without the recognition of insurers and the financing of banks, it is impossible to insure the risk of carriers or finance transactions.¹⁷⁷ However, it is important to highlight that as at 4 April 2024, there are 12 e-environments recognised by the International Group of P&I Clubs worldwide for the circulation of electronic bills of lading, which allow, among other things, to transfer bills of lading from one format to another, ie from electronic form to paper and vice versa¹⁷⁸.
327. Subsection 5 of § 38 of the Merchant Shipping Act provides the option of issuing a bill of lading also in electronic form by setting out that a bill of lading prepared in electronic form is deemed to be equivalent to a bill of lading referred to in subsection 5 of this section provided that the integrity of such document is ensured at all times and the use of an electronic bill of lading has been agreed between the carrier and the shipper. The 'integrity' of the data is understood to mean the guarantee of the correctness, completeness and up-to-dateness of the data, as well as authenticity of origin and the absence of unauthorised changes.¹⁷⁹
328. It is a general regulation in nature, but there is a good reason for it. In the current situation and in the phase of technological development and harmonisation of standards, it is not reasonable to limit the use of electronic bills of lading to a specific technology or standard, as this would limit the choice of parties, especially when a new technological solution is introduced to the market. If in the future, however, it becomes necessary to specify the requirements for electronic bills of lading, then it is possible to do so.¹⁸⁰
329. In summary, an electronic bill of lading has exactly the same legal meaning as a traditional paper bill of lading, but its issuance requires the consent and willingness of the parties to use the electronic environment and the corresponding electronic environment ensures data integrity that satisfies not only the parties but also the insurers. Today, such international standardised electronic environment does not exist.

¹⁷⁷ Act to amend the Merchant Shipping Act and the Maritime Safety Act SE 741. Explanatory memorandum, pp 27-28.

¹⁷⁸ The following e-environments for electronic bills of lading have been recognised by the International Group of P&I Clubs as at 4 April 2024: Bolero International Ltd, E-TITLE Authority Pte Ltd, Global Share S.A., WAVE, ICE Digital Trade Management Limited, CargoX, IQAX Limited, Secro Inc., TradeGo PTE. LTD, eTEU Technologies Ltd, BRITC ETRADE SOLUTION Co., Ltd, and Enigio AB (trace:original). The International Group of P&I Clubs is a global association of insurers. [Link](#)

¹⁷⁹ SEE 741. Explanatory memorandum, p 11.

¹⁸⁰ Ibid, p 28.

3.5.4.3. Sea waybill

330. As the content and drafting of a sea waybill are subject to essentially identical requirements as a bill of lading, there is no need to repeat the above.
331. Due to the principle of principle of party autonomy set out in subsection 2 of § 3 of the Merchant Shipping Act, it is permissible to draw up a sea waybill electronically, but here too the consent and willingness of the parties to do so electronically and the existence of a corresponding electronic environment are a prerequisite. In the case of a functioning electronic environment, the ability to ensure data integrity is of course a prerequisite, which is important in defining the rights, obligations and responsibilities of the parties. Here, too, it is important whether insurers accept the proposed electronic solution. It is known from practice that major marine shipping companies have set up, according to their needs, electronic environments through which relevant data communication with their customers takes place.
332. A prerequisite for the transport of dangerous goods is that the shipper informs the carrier about the dangerous goods (§ 8 of the Merchant Shipping Act) and the submission of a dangerous goods declaration by the shipper (§ 42 of the Maritime Safety Act). The designation of dangerous goods and the content of the documentation are regulated by the Maritime Safety Act and Regulation No 74 'Procedure for notification of dangerous goods'¹⁸¹ adopted by the Minister of Economic Affairs and Communications on 14 July 2011 on the basis of the Maritime Safety Act, which, in turn, are based on the IMO Conventions and the IMDG Code. Since information on the type and designation of the goods must also be included in the bill of lading and sea waybill, the reference to dangerous goods must also appear there.

3.5.5. Summary

333. The electronic carriage document is enabled for both road, air and rail transport, as well as freight transport by sea and inland waterways. International conventions do not precisely regulate the technical procedure required for the identification of declarations of intent, ie how authentication and approval of operations should be carried out.
334. The eCMR for road transport provides descriptions of the conditions for electronic consignment note authentication, but also allows the use of a solution authorised in the country where the carriage document is drawn up. CIM UR for rail transport allows the use of a solution in which the procedures for the electronic storage and processing of data are functionally equivalent. In the case of air transport, the Montreal Convention allows the storage of freight data on another medium instead of an air waybill, but does not establish specific procedural requirements in this regard. The use of an electronic waybill is also permitted under the Chicago Convention. In the case of air transport, it is important to bear in mind that most important requirements arise from the IATA Resolution 972 (implementation of e-AWB) and the data interchange standard approved by IATA Resolution 670. In the case of IATA, it should be considered that the parties to its agreements are airlines which have voluntarily submitted themselves to the agreements developed by IATA. Therefore, the IATA rules are not directly applicable to countries.
335. The foregoing suggests that it is advisable to regulate the legal force of the electronic carriage document, ie its equivalence with a paper carriage document and its conditions, more precisely at the national level.

¹⁸¹ Procedure for notification of dangerous goods. Minister of Economic Affairs and Communications Regulation 14.7.2011 No 74. – RT I, 3.2.2022, 10.

4. Future solution

4.1. General description of the future solution

336. The eFTI Regulation aims to promote environmentally friendly transport, encourage digitalisation and the uptake of technology in logistics, and increase the competitiveness of the EU transport sector in the world. The eFTI system established under the eFTI Regulation can be divided into two major units that are integrated with each other: (i) eFTI platforms and (ii) eFTI Gates. The eFTI system, with its two major components, will not be a stand-alone closed solution but will be integrated with other IT systems (the eFTI Gate with the IT systems of the competent authority and the eFTI platform with the IT solutions of economic operators).
337. In accordance with the concept set out in the eFTI Regulation and its implementing acts, economic operators should henceforth manage electronic freight transport information on eFTI platforms or on service platforms/services integrated with eFTI platforms, where they store relevant information to be made available to the authorities.
338. The eFTI platform is a solution based on information and communication technology for the processing of electronic freight transport information, which in particular performs the following functions:
- operation system;
 - working environment;
 - database, and
 - access and roles module.
339. The data processed on the eFTI platform is received from the IT systems of the economic operators concerned. One of the key requirements for developing a technical solution is that the data of economic operators must always remain with the economic operators themselves. This data should only be accessible to authorities when there is a specific request made through the eFTI Gate. The eFTI platform is integrated with the eFTI Gates.
340. Information between the competent authority and the economic operator concerned is exchanged via the eFTI Gate. The eFTI Gate is integrated with the IT systems of both the eFTI platform and the competent public authority. Competent public authorities must have the capacity to receive and process the data made available through the eFTI platforms. Public sector bodies set up eFTI Gates and are responsible for interfacing them with other systems as needed.
341. In summary, the eFTI Regulation enables digital data exchange systems between economic operators and competent authorities, but also connects national eFTI Gates between Member States and thus creates a pan-European eFTI exchange environment.

4.2. Functional requirements

4.2.1. Requirements for platforms

342. The requirements referred to in this Chapter may be clarified when the eFTI implementing acts are finalised. The requirements below have been prepared as at 25 June 2024.
343. General requirements for data exchange architectures and interfaces:
- The eFTI information of the economic operators concerned has been made available electronically to the competent authority via a certified eFTI platform (Article 4(2) of the eFTI Regulation);
 - The eFTI platform shall, at the request of the competent authorities, display the information at once;
 - The eFTI service provider must make eFTI information available to the competent authority in a machine-readable format (Article 4(2) of the eFTI Regulation);

- at the request of the competent authority, the eFTI platform (which stores the eFTI information of the economic operator concerned) must also provide information in a human-readable format (from the screen of the device) (Article 4(2) of the eFTI Regulation);
- the operator of the eFTI platform (the service provider or the relevant economic operator that operates the eFTI platform or provides the relevant service) must ensure that data on the platform is processed only by authorised users who have the appropriate rights to enter or process such information (Article 10(1) of the eFTI Regulation; Article 9 of the eFTI Regulation);
- competent authorities must, where appropriate, obtain proof (certificate) that the economic operators concerned are who they claim to be and that they have the right to provide the relevant information.

344. Data management and storage:

- the eFTI platform must ensure the creation of a unique identifying link between the shipment and the data elements/data set (Article 9 of the eFTI Regulation);
- the eFTI platform must ensure that the unique identifying link contains a structured reference to the eFTI platform where the information is made available (Article 9 of the eFTI Regulation);
- the economic operators concerned must confirm the information provided by them and, if necessary, be prepared to confirm the information provided by their partners or information services or previous carriers of the same transport;
- information in human-readable format requested by competent authorities shall be made available on the spot, on the screen of an electronic device owned by the economic operator concerned (Article 4(4) of the eFTI Regulation);
- the competent authorities shall have access to regulatory information on the eFTI platform that various parties have created, provided, or used throughout the shipment. This access will pertain to information before the shipment begins, at the start of the shipment, and during the shipment;
- at the request of the competent authorities, the economic operator concerned must provide additional information via the eFTI platform within the prescribed period (Article 5(1) of the eFTI Regulation; Article 50(4) of Regulation 1013/2006);
- the eFTI platform and the service provider must ensure that the eFTI data set remains linked to the transport throughout the shipment;
- the eFTI platform and the service provider must ensure the information is available throughout the transport process.

345. Access to and sharing of data:

- competent authorities can access data even after the end of the transport, within a prescribed period of time (point (c) of Article 9(1) of the eFTI Regulation);
- the economic operators concerned must update the prescribed information on the eFTI platforms at any time when the information is updated;
- the eFTI platform must establish a functional and accessible unique identifying link, along with other features, to access the data set or individual elements.

346. Interactions/interoperability and integration availability:

- the eFTI platform will allow the economic operator to provide the required data to the competent authority promptly, with minimal lag if a lag is permitted.

347. Identification and authentication of users (persons and systems):

- the concerned economic operators will have access to all data sets through the eFTI platform, including those issued, compiled, and submitted by other relevant economic operators for a specific shipment.

348. Access rights and roles:

- competent authorities, eFTI service providers, and relevant economic operators must ensure that data can only be processed, used, and accessed by duly authorised persons, economic operators, or systems.

349. Evidence and logs:

- the eFTI platform must record and retain all operations entered, stored, or deleted on the platform by an economic operator concerned and also enable the economic operator to obtain confirmation of the entry of such data;
- the eFTI platform shall ensure the reliability of the evidence;
- an eFTI service provider (eFTI platform operator, service provider, or the economic operator concerned) must ensure that information on the rights of the economic operator concerned to manage and report data on the eFTI platform is presented in an unambiguous manner so that the competent authority can also verify it;
- the eFTI platform must ensure that data processing is accompanied by proper logs. At a minimum, it should identify the person or economic operator who performed the operations, detail the specific operations carried out, and provide a record of the sequence of changes made to each data element;
- in addition to maintaining logs of the operation, the eFTI platform ensures that if a data change involves erasure of the data, the original information is retained in the history;
- where the regulatory information requires official confirmation (stamp or certificate), it must be issued electronically by the competent authority concerned (Article 5(3) of the eFTI Regulation).

350. Data security

- Competent authorities, eFTI service providers, and economic operators concerned shall ensure confidentiality when creating, entering, managing, processing, storing, and accessing eFTI data (Article 6 of the eFTI Regulation);
- competent authorities, eFTI service providers, and economic operators concerned shall ensure that only legitimate users have access to eFTI platforms and eFTI data (Article 6 of the eFTI Regulation);
- competent authorities have access and the right to access some logs of the eFTI Platform for a period of time in order to audit the activities of the eFTI Platforms from a legal standpoint (Article 9 of the EFT Regulation);
- the service provider of the eFTI platform (either the service provider or the economic operator concerned) shall ensure the recording and monitoring of the number of accesses and uses of the eFTI platform and keep records for the prescribed period (Article 17 of the eFTI Regulation; Article 9 of the eFTI Regulation);
- the data is protected against theft, destruction, accidental loss, and damage (point (j) of Article 9(1) of the eFTI Regulation; Article 10(1) of the eFTI Regulation);
- the data is protected against both unauthorised and unlawful processing (Article 10(1)).

351. Data models, standards, semantics, messages:

- the economic operators concerned shall communicate the unique electronic identifying link and other characteristics related to the entire transport and shipment (Article 4(3) of the eFTI Regulation);
- eFTI platforms must process, compile, and share common eFTI databases and subsets of eFTI data (Article 9 of the eFTI Regulation).

352. Other general functional/IT aspects:

- the eFTI service provider (either the service provider or the economic operator concerned) must archive all the information on each transport and make it available retrospectively within the period provided for by law (Article 9 of the eFTI Regulation; Article 10(1) of the eFTI Regulation);
- the eFTI platform shall ensure the function of organising archiving.

353. Other non-functional/cross-functional aspects:

- the eFTI platform and the service provider must ensure that the principles of the GDPR are implemented (GDPR requirements, Article 9 of the eFTI Regulation).

4.2.2. Requirements for the eFTI Gates

354. The functional requirements of the eFTI Gate derive from Article 6 of the implementing regulation of the eFTI Regulation [number to be disclosed] (**regulation on access to competent authorities**).

355. The purpose of the eFTI Gate is to ensure that authorised requests for access to eFTI data are transmitted to the eFTI platform and contain the specific information requested. For each such request, the response received from the eFTI platform shall be transmitted to the user application of the officer of the competent authority responsible for the request, either directly or via the AAP. If a follow-up communication¹⁸² of the request is lodged, it shall be transmitted to the eFTI platform, containing the eFTI data and the response received.
356. The regulation on access to competent authorities specifies that eFTI Gates should mediate the exchange of freight transport information provided for by provisions of law between the economic operators concerned and the competent authorities. They should ensure secure and authentic connections to the ICT components that mediate access for individual officers of the competent authorities of a particular Member State, as well as to the eFTI platforms containing the data to which those officers should have access. These eFTI Gates should not store or process eFTI data except metadata related to the processing of eFTI data, such as identifiers or activity logs. They are used only for legitimate purposes such as routing, format validation, or customisation and for monitoring or statistical purposes.
357. The eFTI gate must allow for the confirmation of access requests to eFTI data and, if necessary, also provide follow-up communication when it is initiated. This function is necessary in the following cases:
- where the AAP, created as a separate component outside the eFTI Gate, acts as a requesting Gate¹⁸³, to verify the security key of the AAP through which the request was submitted or the follow-up communication was lodged;
 - where the eFTI Gate acts as the receiving Gate¹⁸⁴, to verify the security key of the eFTI Gate through which the request or follow-up communication was received; and
 - if the security key for the relevant eFTI Gate fails to be validated, send an error message to that effect, as appropriate, either to the requesting Gate, to the AAP, or to the officer of the competent authority responsible for the request or follow-up communication.
358. The eFTI Gate shall be capable of processing the request for access to the eFTI data and, where appropriate, the follow-up communication if lodged by an appropriate search mechanism and the request or follow-up communication is transmitted based on the result of the processing. This requirement shall apply to the relevant eFTI platform or the relevant eFTI Gates when they act as the requesting Gate and to the relevant EFT platform if it acts as the receiving Gate.
359. The eFTI Gate shall be capable of maintaining an audit trail of all requests for access to eFTI data or follow-up communication processed by the eFTI Gate. At least the following must be retained:
- the unique identification number of the request for access to the eFTI data or the follow-up communication;
 - the request identifier of the AAP or eFTI Gate through which the request or follow-up communication was received, and
 - the date and time of receipt of the request.
360. The eFTI Gate must allow confirmation of the response received to the processed query. If the response is received directly from the eFTI platform, the security key and certification status of the eFTI platform must be verified against the registry. If the response is received through the receiving eFTI Gate, the security key of the eFTI platform must be verified against the registry. If the security key for the relevant eFTI Gate or eFTI platform fails to be validated, an error message to that effect shall be sent as appropriate, either to the requesting eFTI Gate, to the AAP, or to the user application of the officer of the competent authority responsible for the request.

¹⁸² According to Article 1(6) of the regulation on access by competent authorities, 'follow-up communication' means communication between competent authorities and the economic operators concerned on the information made available by the economic operators on an eFTI platform, following a compliance check by a competent authority officer of that information as provided in response to a request for access to eFTI data. Such follow-up communication may include a request for missing eFTI data or information on follow-up actions taken by the competent authority in accordance with the applicable national provisions of law.

¹⁸³ Pursuant to Article 1(13) of the regulation on access to competent authorities, 'requesting Gate' means an eFTI Gate that processes a request for access to eFTI data lodged via an AAP connected to or integrated into that eFTI Gate.

¹⁸⁴ Pursuant to Article 1(14) of the regulation on access to competent authorities, 'receiving Gate' means an eFTI Gate that processes a request for access to eFTI data received from a requesting Gate.

361. The eFTI Gate shall be capable of transmitting the response to the processed request in the same manner but in the opposite sequence to the transmission of the request, either to the requesting eFTI Gate or to the user application of the officer of the competent authority responsible for the request, directly or via the AAP.
362. If confirmation of receipt of the request is received but no other response is received within 60 seconds, a 'No response' message shall be sent, as appropriate, either to the requesting Gate, the AAP, or the user application of the officer of the competent authority responsible for the request.
363. The eFTI Gate shall be capable of maintaining an audit trail of all the responses received to the access request transmitted. At least the following must be retained:
- the UIL of the eFTI data set it received in response to that request;
 - the unique identification number of the eFTI platform or 'receiving eFTI Gate' from which it received the response;
 - the date and time it received that response;
 - where no response was received, an indication to that end.
364. The eFTI Gate must retain and keep logs available for audit for at least two years, or longer as mandated by national provisions of law regarding the availability of evidence of compliance with the provisions requiring access to eFTI data. The maximum period for maintaining accounting documentation is 7 years.
365. To ensure the aforementioned functional requirements, the eFTI Gate shall:
- use a search mechanism, in accordance with Article 8 of the eFTI Regulation;
 - establish and maintain a secure connection to the AAPs that mediate the access to the eFTI exchange environment of the competent authority officers of the Member State that established the respective eFTI Gate;
 - where the AAPs are established as integrated components to the eFTI Gate, establish and maintain a secure connection to the user application or applications, as applicable, of the competent authority officers of the Member State that established the respective eFTI Gate;
 - where AAPs are established as separate components to the eFTI Gate, establish and maintain an up-to-date registry containing the unique identification numbers and security certificates of those AAPs;
 - establish and maintain a secure connection to all the other eFTI Gates, as well as an up-to-date registry containing the unique identification numbers and the security certificates of those eFTI Gates;
 - establish and maintain a secure connection to all the eFTI platforms that received certification in the Member State or Member States that established the respective eFTI Gate, as well as an up-to-date registry containing the unique identification numbers, security keys and certification status of those eFTI platforms;
 - be able to use the jointly defined services and the design, functionality, and architecture of the system in the eFTI exchange environment, provided that those services or the design, functionality, and structure of the system are agreed within the network of operational support.¹⁸⁵

4.2.3. Requirements for the Authority Access Points (AAP) of competent authorities

366. The requirements for competent authorities' Authority Access Points, or AAPs, derive from Article 4 of the regulation on access to competent authorities. The AAP components shall enable the access of the competent authorities' officers to the eFTI exchange environment. The AAP shall constitute an officer's sole point of access to that environment.
367. The AAP shall be capable of authenticating the identity of the competent authority officers, or ensure the authentication of the identity of the competent authority officers

¹⁸⁵ Pursuant to Article 13(1) of the regulation on access to competent authorities, the 'network of operational support' is a dedicated working group tasked with ensuring the proper quality of eFTI operations.

368. The AAP shall make it possible to authorise the request for access to eFTI data of the competent authority officers, based on their respective access rights stored in the authorisation registry, or reject the request if the competent authority officer has no active access rights registered.
369. The AAP shall make it possible to register the authorised requests for access to eFTI data by issuing a unique identification number for each such request, and record at least the following information for each request:
- identification references of the officer responsible for lodging the request;
 - the UIL of the eFTI data to which access is requested, or the identifier or identifiers provided by the officer when lodging the request;
 - the references to the access rights of the competent authority officer responsible for lodging the request, as recorded in the authorisation registry;
 - the date and time at which the request was lodged.
370. The AAP shall enable to transmit the authorised requests for access to eFTI data to the eFTI Gate for processing , by providing the following information:
- the unique identification number of the request;
 - the UIL of the eFTI data to which access is requested, or the identifier or identifiers provided by the officer when lodging the request;
 - the references to the processing rights of the competent authority officer responsible for lodging the request, as recorded in the authorisation registry.
371. The AAP shall enable to receive the responses to requests transmitted by the eFTI Gate and make these responses available to the competent authority officer responsible for that request via the user application.
372. The AAP shall make it possible to keep an audit trail of the responses received for each request by logging at least the following information:
- the unique identification number of the request for which the response was received;
 - the date and time at which the response was received by the AAP;
 - the date and time at which the response was forwarded by the AAP to the officer responsible for the respective request.
373. The AAP shall enable to keep an archive of the requests for access to eFTI data and of the log of the received responses for a period of 2 years or, where national applicable provisions on the availability of evidence for the enforcement of the provisions for which access to eFTI data is required provide for a longer period of time, for that period of time.
374. When a follow-up communication in accordance with Article 3(4) is lodged, register the follow-up communication by issuing a unique identification number. The AAP must allow the transmission of follow-up communication to the eFTI Gate for processing.
375. The following is required to perform the aforementioned AAP functions:
- use appropriate electronic identification means that allow for reliable identification and authentication of the officers of the competent authorities, or that allow for verifying that the identification and authentication of those officers is ensured by another appropriate ICT component;
 - use an authorisation registry;
 - establish and maintain a secure connection to an eFTI Gate;
 - support a secure connection to the user application.

4.3. Descriptions of business processes of the future solution

4.3.1. From the economic operators

376. Information and data have several key differences from traditional assets because they are infinitely shareable, and the more they are shared, the more valuable they become.¹⁸⁶ This can be seen in the success of various projects based on big data analysis in different areas. Europe is moving towards making data available in real-time and ensuring data accuracy and compliance with a certain quality.¹⁸⁷ The goal is to promote the development of new data-driven services and products, fostering an environment conducive to the growth of the real economy.
377. It is important to remember that crime is more prevalent in cyberspace, highlighting the significance of cybersecurity, especially regarding data and identity theft. The biggest challenges are protecting big data logs, data that is collected and presented in real-time, and data access and data sources.¹⁸⁸ Since both databases and national digital infrastructures contain a large amount of personal data and confidential information with limited access, effective cyber security must be ensured to protect data and individuals.
378. One of the European Union's objectives is to enable cross-border identification, share electronic documents, and facilitate the use of services. To achieve this, the European Commission will create an open-source prototype of the digital wallet. Each Member State will then develop its own digital wallet application for citizens, following the existing digital architecture. In this way, the possibilities of their own digital state will be combined with new cross-border solutions. The digital wallet is planned to be introduced in Europe from 2026, and the Estonian digital wallet solution is being developed by the information System Authority (RIA).¹⁸⁹
379. Among others, the eIDAS Regulation promotes interoperability between national e-identification systems in the EU, enhancing cybersecurity. This will enable the EU to provide individuals, businesses, and administrative authorities with the right foundations and a clear legal framework for secure access to services and online transactions
380. A systematic structure must be established to ensure its continuous operation for digitisation and safe sharing of data. Here, it is also necessary to maintain server functionality when the number of active users reaches full capacity, as occurred with the income tax declaration in the 'Maasikas' environment¹⁹⁰ during the reporting period. If new international environments are to be established that should operate daily, they must accommodate a larger number of users. Environments must also be able to quickly restore the environment, if necessary, as well as to save documents and operations should the functioning of the environment be disrupted.
381. The exchange of electronic freight transport information and the use of waybill platforms allow for the creation, signing, and verification of electronic waybills through compliant eFTI platforms. This process interrupts the shipping process as little as possible and reduces the need for excessive additional activities by economic operators when submitting data. A simplified process diagram of the future solution is given in clause 92
382. In the future solution, an economic operator can draw up reports based on data from e-waybills that need to be submitted to the state. Currently, economic operators must do this manually.

4.3.2. From the platform developers

383. For platform developers, implementing the eFTI Regulation means developing their services based on common standards (including completing the certification process for service provision). Today, many platform developers are focused on domestic shipments, and the technical solutions of the platforms have been designed with national regulations and needs in mind. For example, EVR narrowly focuses on the

¹⁸⁶ Kukke, A. Informatsioon kui digitaalne vara. Postimees 2014 [Link](#)

¹⁸⁷ *Real-time data 2022: Approaches to integrating real-time data sources in data.europa.eu*. European Union [Link](#)

¹⁸⁸ Eljas-Taal, K. jt. Kas andmetest kujuneb uus varaklass? Riigikogu 2018. [Link](#)

¹⁸⁹ Digital wallet, the European Union's digital identity application (EUDI Wallet). Website of the Information System Authority [Link](#)

¹⁹⁰ Use of the e-service of the Tax and Customs Board. Tax and Customs Board website [Link](#)

timber waybill. The introduction of common technical requirements across the EU will allow the development of services that can be used across the EU. For platform developers, adopting the eFTI requirements has strong export potential. The possible services offered by the platform developers would not be limited to the transmission of electronic information, which falls within the scope of the eFTI Regulation, but could also include many other services necessary for cooperation between economic operators. It is also possible to create services that would enable to draw up reports to be submitted to the state based on the data provided.

4.3.3. For the competent authorities

384. For competent authorities, transitioning to electronic freight transport information allows them to request data from eFTI platforms. This is true regardless of the eFTI service provider used by economic operators or the European country they are used in. Additionally, it applies to any eFTI Gate through which a state authority or agency processes the request. In addition to national queries, it must also be possible to make queries to eFTI platforms in other countries through the eFTI Gate.
385. The purpose of queries made through the eFTI Gate is to obtain an overview of the availability, integrity, and content of the data in accordance with the agreed data standard. The competent authorities review the waybill and transport documentation via the eFTI Gate during active transport (national query, national query from the eFTI Gates and eFTI platforms of other countries or another country's query from Estonian eFTI platforms).¹⁹¹ In the future solution, in most cases, there is no need to suspend the shipment to inspect transport documentation or to visually inspect the documentation.
386. The establishment of a single data exchange point through the eFTI Gate will facilitate the implementation of the one-request-only principle in the future solution for information that currently must be submitted multiple times. For example, an economic operator could draw up the movement document for hazardous waste as part of a standard electronic movement document, and the relevant information could be made available to the competent authority, ie, the Environmental Board, through the interface between the eFTI platform and the eFTI Gate. At present, the accompanying documents for international shipments are prepared in the KOTKAS international waste transport module (RVJV). The accompanying documents (Annexes VII and IB) must be entered in the KOTKAS on an ongoing basis, that is, depending on the document, a certain number of days before the shipment. The data entered in the accompanying documents are subsequently entered in the waste report as import-export records. As the analysis was being conducted, a new information system called PISTRİK was in the development phase. This system will need to interface with the eFTI platform through X-tee to communicate information about e-waybills of waste transport to other parties that have joined the eFTI platform and comply with the eFTI Regulation requirements.¹⁹²

4.3.3.1. For other authorities

387. The eFTI Regulation, along with the ICT components developed under it, is specifically designed to provide access to relevant freight transport information. However, the actual applications of this information may extend far beyond the original scope. The establishment of the eFTI Gate and eFTI platforms could also enhance the efficiency of various national procedures.
388. **Statistics Estonia (official statistics)** – Statistics Estonia has the right to request data collected in databases from the controllers of databases (subsection 4 of § 28 of the Official Statistics Act). Today, Statistics Estonia does not have the possibility to request information from a central database to produce official statistics in the field of freight transport. Data is obtained from economic operators mainly based on a sample or, as a general rule, in the framework of annual data queries. In the future solution, Statistics Estonia would be able to inherit freight transport information data from the eFTI Gate (ie metadata) on approved and completed waybills, providing an important input on freight transport volumes.

¹⁹¹ Hurt, U. et al. Analysis of the operational model of the Estonian national access point for electronic road transport consignment notes, p 25.

¹⁹² Experimental development and further development and maintenance of the new PISTRİK waste information system 2024–2028. Public procurement reference No 279005.

389. **Emergency Response Centre (processing of emergency notifications)** – the Emergency Response Centre proceeds from the information provided in the processing of emergency notifications, ie, the identification of the need for assistance, the assessment of the threat and thus the involvement of operational units, which currently does not include information about the goods being transported. The inclusion of freight transport information in the regulation on the database of emergency notifications and help and information notifications could be an important input for providing hazard assessments, which would allow for a faster response to accidents with more appropriate forces.
390. **Rescue Board** — the Rescue Board performs the tasks arising from laws and legal acts granted on the basis thereof (clause 9 of subsection 1 of § 5 of the Rescue Act). The tasks of the Rescue Board include ensuring readiness to perform rescue and demining work and carrying out rescue and demining work (clause 1 of § 8 of the Statutes of the Rescue Board) as well as collecting, processing, storing, and communicating information related to the tasks of the Board to the public (clause 9 of § 8 of the Statute of the Rescue Board). The Rescue Board’s responsibilities include collecting information and, during rescue operations, acting as a central authority. This often involves responding to rescue events even when an emergency notification has not been sent to the Emergency Response Centre. Therefore, it is crucial for the Rescue Board to gather information about the goods involved in the incident.
391. **Estonian Internal Security Service (national security)** – the Estonian Internal Security Service has important tasks in ensuring national security, including aviation safety, the illegal transport of strategic goods, and the transport of prohibited strategic goods. To ensure security, freight transport information in aviation is particularly important to the Estonian Internal Security Service. This includes the air waybill or declaration, which allows the service to gather information about the consignments on board the aircraft. This process is essential for preventing and combating aviation-related crimes and for conducting pre-trial investigations. Access to the relevant documents electronically would significantly enhance the implementation of the respective tasks.
392. **ETCB (enforcement of international sanctions)** – the ETCB enforces international sanctions related to the import and export of goods, carrying out the necessary actions for this purpose under the Customs Act and the Customs Code. To evaluate the risk of non-compliance and safeguard the financial interests of the Union, the ETCB has the right to request, with a valid justification, data from the national database at no cost. This data includes information on special permits and registrations related to the transportation of goods, logistics, vehicles, and individuals. Providing the ETCB with access to freight transport information would enable it to carry out its national tasks more effectively since, in most cases, there would be no need for physical checks on the goods on the spot. Access to freight transport information would also make it possible to screen out shipments where there may be a higher risk of non-compliance, such as goods of a certain origin, thereby creating the need for on-the-spot checks.
393. **ETCB (prevention of tax fraud and illicit trafficking)** – information about cargo crossing the Estonian border and its contents is of decisive importance in preventing illicit trafficking by the ETCB. One effective solution for road transport is to harmonise eFTI data with the ANTS border crossing system. The ANTS enables the identification of vehicles crossing the border that are of interest to the ETCB. When entering a customs office, standard and infrared cameras automatically take pictures of all means of traffic from three sides. The ANTS recognises their country of origin by the number plates, as well as the numbers of the shipping containers on the trailers. If the automation records a suspicious number, it issues an alarm signal to the operator. Suspicious vehicles will be referred to additional customs checks. If the eFTI is implemented, it would be possible to carry out the initial check electronically without stopping the vehicle. Access to freight transport information would also make it possible to screen out shipments where there may be a higher risk of non-compliance, thereby creating the need for on-the-spot checks.

4.3.4. Summary

394. The future solution will include electronic freight information in a standardised form, which will allow operations and procedures related to freight transport information to be carried out significantly faster and with lower resource costs from the perspective of both the economic operator and the competent authority. Enforcing common standards will allow platform developers to introduce new services that may be of interest to both economic operators and competent authorities. In addition to access to freight transport information, the acceptance of which is made mandatory for competent authorities under the eFTI Regulation, the eFTI Gate can also provide perspective access to other relevant information relating to

freight transport, which can contribute to the performance of important public duties and the provision of services such as rescue operations planning, collecting national statistics, combating tax fraud and smuggling, enforcing international sanctions and ensuring national security. On the other hand, in developing a future solution, in addition to the potential benefits of access to a large volume of freight transport information, the potential risks and their mitigation options must also be taken into account.

4.4. Risks related to the future solution and their mitigation

4.4.1. Risks and mitigation of risks associated with the eFTI solutions

395. The table below maps out the risks identified during the various phases of this project. Input has been obtained from questionnaire replies, discussion seminars, interviews, and other materials developed by the authors of the legal analysis. Options for mitigating the risk are also outlined. The table below does not discuss various physical hazards.
396. As can be seen in the table below, the risks and hazards can be divided into data protection risks (various data breaches, exceeding the mandate, data quality risks, risks related to the processor), risks related to the identification of the declaration of intent, and technical risks related to data compatibility. Risks related to potential changes in laws and non-transparent data processing practices should not be underestimated.

Table 13. Assessment of the main risks associated with data processing

#	Hazard	Proposed data processing	Assessment of the origin, source, nature, or specificity of the risk	Explanation	Mitigating the risk
1.	The necessary legislative amendments related to the transposition of the eFTI Regulation may not succeed to the desired extent		Assuming the readiness of the Ministry of Economy and Communications and Ministry of Climate to process amendments and assuming that the necessary legislative amendments are adopted, the effects of an inadequate legal environment will diminish in the future.		Possible with a regulatory action
2.	Data processing exceeding the mandate	Processing of trade secrets, confidential information, personal data, including automated processing of personal data	<ul style="list-style-type: none"> Inadequate procedures Ignoring the rules Error in terms of root-access rights Faulty technological solution Ignoring the rules 	Data processing exceeding the mandate can arise from various aspects. One of these may be the fact that the organisation has insufficient procedures in place to regulate aspects related to data processing. This situation can also arise if the established rules are ignored. Data processing exceeding the mandate may occur due to incorrect access rights, such as when higher-level authorisations are granted technically, exceeding what is specified in an employee's job description.	<ul style="list-style-type: none"> Continuous development and review of rules and procedures Raising general awareness (including information and training of employees, including on the principles of processing personal data) Regular audit of access rights Regular analysis of activity logs Quality management of IT solutions, eg testing and version control
3.	Data leakage	Unauthorised and/or unlawful use of data and personal data	Stages of data processing: <ul style="list-style-type: none"> uploading data into the system data analyst desktop publication of results assignment of rights 	The risk can be caused by human error in the processing of personal data, for example, violation of data protection requirements, access to systems by unauthorised persons.	Development of relevant internal procedures and rules and control mechanisms

#	Hazard	Proposed data processing	Assessment of the origin, source, nature, or specificity of the risk	Explanation	Mitigating the risk
4.	Data leakage	Retention, transfer, or (permanent) erasure of data and personal data	<ul style="list-style-type: none"> • Data storage • Log server • Communication channels • Back-up • Key management • Erasure • Hardware handling 	<p>Unauthorised persons may have access to the data storage.</p> <p>User logs may contain sensitive information, including personal data.</p> <p>Communication channels — communication channels may leak in the case of key management errors.</p> <p>In backed-up copies, all information is encrypted.</p>	Practices appropriate to the data class must be implemented
5.	Data leakage	Risks associated with the outsourcing of services materialise	<ul style="list-style-type: none"> • Errors by the service provider • Malice on the part of the service provider • Problems with cloud service and infrastructure 	<p>A service provided over the public web may include vulnerabilities, leading to data being accessed by unauthorised persons.</p> <p>A service provider may host its solution in a public cloud, so third-country law enforcement authorities may have the option to request the provider's data.</p>	<ul style="list-style-type: none"> • Organisational safeguards (liability, service contracts, notification) • When outsourcing services, it is essential to analyse what information may be exposed to the service provider. It is important to communicate details about their logging and storage practices. Specifically, one should inquire whether any traces are left behind when queries are made and what those traces may be. • Supplier quality management • Supply chain analysis • Encryption of communication channels
6.	Liability for the activities of the processor	Data processing by a processor	Data processing carried out by an authorised person	<p>The division of rights and roles between the controller and the processor may lead to a situation where the controller does not have sufficient information about data processing.</p> <p>A processor may become a (joint) controller where this is not planned.</p>	<ul style="list-style-type: none"> • Correct data processing agreements with processors • Monitoring and auditing of actual data processing

#	Hazard	Proposed data processing	Assessment of the origin, source, nature, or specificity of the risk	Explanation	Mitigating the risk
7.	Risk arising from data quality errors	Processing of data and personal data	<ul style="list-style-type: none"> • Input errors • Source errors • Change management • Software errors • System analysis errors • 	<p>During the data upload process, incorrect links can occur between individuals and their data. Due to this, incorrect information is used in further processes and stages.</p> <p>Data sources change over time. Fields are created and deleted. Data uploading must go hand in hand with source changes.</p> <p>Other quality issues</p>	<ul style="list-style-type: none"> • Establishing procedures and controls to ensure adequate data quality and regular checks to assess data quality • Quality risk analysis
8.	Non-transparent data processing is not controllable or trusted	Automated data processing, eg algorithms and machine learning	Unclear models	<p>The results of the algorithm or model are not reviewed, leading to errors in the next steps of the data processing or process.</p> <p>Errors persist in the implementation, inconsistencies in the model arise, and some aspects of the model are unclear to the implementer.</p>	<ul style="list-style-type: none"> • Explanations of models must be constructed and models analysed in a way that is understandable to humans. • The result provided by a machine is reviewed • Explanation of the model should be planned as part of the implementation

4.4.2. Risks related to cybersecurity

397. The future solution should contribute to ensuring a high level of cybersecurity and cyber resilience in the mobility and transport sectors by increasing the reliability and security of data transactions and complying with the highest cybersecurity standards available.¹⁹³
398. Cybersecurity should be at the forefront of all parts of the mobility ecosystem, in line with the NIS2 Directive¹⁹⁴, which sets stricter cybersecurity requirements. Already in 2016, the NIS Directive¹⁹⁵ identified transport, including air, rail, water, and road transport, as one of the most important sectors.
399. In addition, the proposal for a Cyber Resilience Act¹⁹⁶, which creates an integrated and default cybersecurity obligation for hardware and software entering the European market, is of central importance. It also imposes cybersecurity obligations for the entire product lifecycle, such as ensuring security updates and addressing vulnerabilities.
400. In addition, the Commission has adopted the Critical Entities Resilience Directive¹⁹⁷, which extended the scope of Directive 2008/114/EC to cover eleven sectors, including transport.
401. Another important cybersecurity development is the European Digital Identity Regulation¹⁹⁸, which amends Regulation 910/2014 on electronic identification and trust services for electronic transactions in the internal market (**eIDAS Regulation**).¹⁹⁹ Emerging trends in digital identity, particularly the development of a European Digital Identity Wallet and new trust services such as electronic authentication of attributes and e-ledgers, are especially relevant to data rooms. These trends offer significant advantages in terms of privacy, data protection, and security. As a result, they are likely to play a crucial role in enabling eFTI data rooms.
402. A 'one-size-fits-all' approach, encompassing both the necessary technical data infrastructure and the administrative framework, remains limited to the specific needs of each vertical sector or area. However, it is important to identify sectoral commonalities and, where possible, develop common principles and components that can be used in different sectors and areas without undermining existing or emerging solutions in sector-specific areas. The use of harmonised approaches and mechanisms saves resources and makes it possible to implement very useful models of use.
403. The cybersecurity of eFTI platforms and eFTI Gates is crucial to prevent the leakage of confidential data and unauthorised access based on incorrect requests. Data leakage may damage both the economic operator concerned and the competent authority.

¹⁹³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Creation of a common European mobility data space Brussels, 29.11.2023. - COM/2023/751.

¹⁹⁴ Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148 (NIS 2 Directive) – OJ L 333 27.12.2022, p. 80.

¹⁹⁵ Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union. – OJ L 194, 19.7.2016, pp. 1–30.

¹⁹⁶ Proposal for a Regulation of the European Parliament and of the Council on horizontal cybersecurity requirements for products with digital elements and amending Regulation (EU) 2019/1020, Brussels, 15.9.2022 – COM/2022/454.

¹⁹⁷ Directive (EU) 2022/2557 of the European Parliament and of the Council of 14 December 2022 on the resilience of critical entities and repealing Council Directive 2008/114/EC – OJ L 333, 27.12.2022, pp. 164–198.

¹⁹⁸ Regulation (EU) 2024/1183 of the European Parliament and of the Council of 11 April 2024 establishing a common framework for media services in the internal market and amending Directive 2010/13/EU. – OJ L, 2024/1183, 30.4.2024.

¹⁹⁹ 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, pp. 73–114.

5. Legal framework for the future solution

5.1. Data and information exchange requirements under Estonian law. Administrator of the eFTI Gate in Estonia

404. The eFTI Gate is used to facilitate the exchange of data between the eFTI platforms and the competent authorities. The eFTI platform is an information exchange platform where a specific set of data objects is stored for a specified period of time.
405. In addition to legal acts of the European Union, particularly the eFTI Regulation and the GDPR, Estonian national law also regulates data processing. In particular, it is important to be guided by the Public Information Act and to assess the applicability of database regulation (§ 43¹ et seq. of the Public Information Act).
406. The purpose of organising information and data is to make the data easily searchable and re-usable. To ensure this objective, the data must be well described and have a clearly defined level of quality. In order to ensure lawful, systematic, and traceable processing of data, the Estonian legislator has created the concept of databases, which is regulated by the Public Information Act²⁰⁰.
407. Namely, one way to process data and personal data is to do it in a database. Pursuant to subsection 1 of § 43¹ of the Public Information Act, a database:
- is a structured body of data processed within an information system of the state, local government or other person in public law or person in private law performing public duties which is established and used for the performance of functions provided in this act, a legal act issued on the basis thereof or an international agreement.²⁰¹
408. The Data Protection Inspectorate (DPI) has emphasised that the formal requirement for the database is that it must be established based on an act or legislation issued on the basis thereof. It is noted that, as a rule, other cases constitute general public sector data processing, that is, the processing of public information. Public information does not automatically form a database, even if it is a structured body of data.²⁰²
409. Pursuant to subsection 1 of § 43¹ of the Public Information Act, a database may be established only for the performance of functions provided for in the Act or a legislation issued on the basis thereof. This also means that the administrative authority may not maintain a database for tasks outside its competence.²⁰³
410. If the database contains personal data, the law must, inter alia, provide for:
- the purpose and tasks the data is being collected²⁰⁴;
 - what personal data is collected in the database. *The law should define general groups of personal data, which would give the regulator a framework for the scope and limits of its authority. In other words, the regulation can specify which data from these groups will be collected*²⁰⁵;
 - restrictions on access to data, if necessary²⁰⁶;
 - restrictions on the use of data for other purposes²⁰⁷;

²⁰⁰ Public Information Act. — RT I, 7.3.2023, 11.

²⁰¹ Andmekaitse Inspektsioon. Andmekogude juhend, alapunkt 1.1, 2013, lk 12.

²⁰² Ibid., p. 3, point 1.1.

²⁰³ Ibid., p. 6, point 2.1.

²⁰⁴ Mikiver, M. Analüüs. Andmekogud ja isikuandmed: EV Põhiseadusest ja IKÜM-st tulenevad nõuded regulatsioonile. Ministry of Justice 2021, p. 34.

²⁰⁵ Ibid., p. 34.

²⁰⁶ Data Protection Inspectorate. Andmekogude juhend, 2013, p. 12.

²⁰⁷ Ibid., p. 12.

- how long the data will be stored²⁰⁸.
411. The purpose of regulating databases is to maintain control over data processing and to prevent potential illegal data processing by persons performing public duties.
 412. The current architectural solution of the eFTI is based on the premise that freight transport information is generated and processed on eFTI platforms established by the private sector. The state eFTI Gate solely serves as an intermediary between the eFTI platforms and the competent authorities. Therefore, it should not store or process the eFTI data to which they provide access, except for metadata related to the processing of eFTI data, such as work logs necessary for monitoring or statistical purposes. Since the eFTI Gate primarily serves as an information exchange environment between an eFTI platform and the competent authorities and is based on EU law, the eFTI Gate is not a database in terms of its functionality and legal basis within the meaning of the Public Information Act.
 413. eFTI platforms, where so-called material freight transport information is processed, are not databases in the meaning of the Public Information Act, as they are not created by the state, local government, or person in public law or person in private law performing public duties. It is important to note that while converting freight transport information to electronic form may serve the public interest, it does not amount to the performance of a public duty by a person in private law. Public duties (administrative duties) can be legally defined as duties assigned directly by law or as duties assigned to administrative institutions based on the law that have been derived by interpretation from the relevant provision of law²⁰⁹. The service provided by the service providers of the eFTI platform platforms is, in general, a public service. A public service can be essentially any service in which there is a public interest. The public interest does not automatically make the provision of a public service a public duty²¹⁰. A service becomes a public duty when it is provided for the performance of a duty arising from the law of a person in public law.
 414. In the eFTI Gate, the state processes data (eg, metadata, and query logs) as part of performing public duties. Since the eFTI Gate is an information technology solution for data exchange that does not correspond to the concept of a database as defined by the Public Information Act, the relevant legal issues must be addressed in a special law (for example, in the Road Transport Act, chapter 6.4). At the same time, it cannot be ruled out that the processing of data obtained through the eFTI Gate will in future require a (new) database, the creation of which must also take into account the regulation of databases. In the case of an existing database, it is necessary to analyse the relevance of the statutes of the database and the technical maturity to process the data and perform the new duties
 415. It is important for the field's development to have a responsible person appointed at the ministry level. This person will be responsible for formulating policy, monitoring necessary changes in legal acts, and representing Estonia's interests with the EU policymaker. This role can be performed, for example, by the Ministry of Climate, together with its agencies. The role of the agencies would be to develop technical solutions (eFTI Gate, interfaces, etc)
 416. When establishing and further developing the eFTI Gate, it must be borne in mind that it may, in essence, fall within the competence of different institutions. The most suitable owner of e-services is typically a public authority whose principal activity is closely related to the daily operation of the service. Therefore, it is reasonable to consider the competent authorities of the eFTI, to whom the eFTI service is obliged to share data, as owners. These include the PBGB, ETGB, Transport Administration, Environmental Board, and CPTRA. Since IT competence is important in developing the service, the information technology centre under the administration of the respective ministry is likely to be responsible for developing the service platform. SMIT for PBGB, RMIT for ETGB, and KeMIT for the Transport Administration.²¹¹ Given the one-request-only principle and the aim to avoid creating parallel systems, multiple information systems are not justified because there are several competent authorities. The responsible agency must be an agency of the ministry responsible for formulating the relevant policy.

²⁰⁸ Mikiver, M. Analüüs. Andmekogud ja isikuandmed: EV Põhiseadusest ja IKÜM-st tulenevad nõuded regulatsioonile. Ministry of Justice 2021, p. 34.

²⁰⁹ RKEKm 16.3.2010, 3-3-4-1-10, point 5; RKHKo 14.12.2011, 3-3-1-72-11, point 8.

²¹⁰ N. Parrest. *op cit*, p. 736.

²¹¹ Hurt, U. et al. Analysis of the operational model of the Estonian national access point for electronic road transport consignment notes, p. 92.

417. Potential public authority owners of the eFTI Gate have been analysed in the 2022 NAP requirements analysis²¹². Based on the analysis, various institutions have different strengths, and each of them could be suitable for developing the service. Therefore, the selection of the service provider could also be influenced by a political decision, meaning that the Government of the Republic should make the final decision. When making this decision, one can, if possible, take into account the preparedness, desire, and need of institutions to take a leading role in the development of the service.²¹³ The NAP requirements analysis does not map institutions' preparedness separately, nor has it been done in the context of this analysis. At the same time, the focus of the national eFTI regulation depends on the potential owner of the eFTI Gate as an information system, and thus also the legal acts that need to be amended or supplemented.

5.2. Processing of data received via the eFTI Gate

418. eFTI Gates do not store or process eFTI data except metadata related to the processing of eFTI data at the time of the query, such as identifiers or activity logs. They are used only for legitimate purposes such as routing, format validation, or customisation and for monitoring or statistical purposes. The eFTI Gate will be a new information technology solution, and its operation and development must be the task of a public authority. Since IT competence is important in developing the service, the information technology centre under the administration of the respective ministry is likely to be responsible for developing the service platform. SMIT for PBGB, RMIT for ETCB, and KeMIT for the Transport Administration.²¹⁴ For example, ISA, which has the necessary competence and experience, could be considered the institution responsible for the technical functioning of the eFTI Gate.
419. Even though the eFTI Gate itself is not a database, the data obtained via the eFTI Gate must be processed in accordance with Estonian national law to the extent that it does not conflict with the eFTI Regulation and its implementing acts. Depending on the competent authority's organisation of work and the regulation of national legal acts, there may be a need or even an obligation to process the data obtained via the eFTI Gate in existing databases or to establish a new database through legal acts issued on the basis of an act. In doing so, it should be borne in mind that the need to use or establish a database arises from the directly applicable EU regulation, ie, the eFTI Regulation.
420. When establishing and further developing a database for the processing of data obtained via the eFTI Gate, it should be borne in mind that it may in essence fall within the competence of different institutions. The most suitable owner of e-services is typically a public authority whose principal activity is closely related to the daily operation of the service. It is therefore reasonable to consider the eFTI competent authorities to whom the data should be made available as the owners of the database(s). These include the PBGB, ETCB, Transport Administration, Environmental Board, and CPTRA.

5.3. Cybersecurity requirements

421. Given that the eFTI Regulation imposes high confidentiality requirements on both business and personal data (pursuant to the GDPR), both eFTI Gate data and data obtained via the eFTI Gate, processed for example in databases, must be treated confidentially. When determining the security level of the planned solution, it is necessary to consider at least an average but more likely high level of cybersecurity based on the parameters of integrity, confidentiality, and accessibility of the data to be processed. This initial assessment is based, inter alia, on the likely need to significantly restrict access to data obtained via the eFTI Gate and processed, for example, in a database (including within supervisory bodies), ie, on compliance with the criterion of data confidentiality.

²¹² Ibid., p. 92.

²¹³ Hurt, U. et al. Analysis of the operational model of the Estonian national access point for electronic road transport consignment notes, p. 93.

²¹⁴ Ibid., p. 92.

5.4. Data protection requirements

5.4.1. Personal data processed in the future solution

422. Pursuant to point (2) of Article 4 of the GDPR, processing means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
423. Pursuant to point (1) Article 4 of the GDPR, personal data means any information relating to an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
424. Point (1) o Article 3 of the eFTI Regulation provides that ‘regulatory information’ means information, whether or not presented in the form of a document, that is related to the transport of goods in the territory of the Union, including of goods in transit, which is to be made available by an economic operator concerned in accordance with the provisions of the GDPR in order to prove compliance with the relevant requirements of the acts laying down those provisions.
425. However, recital 7 of the eFTI Regulation clarifies that, since the eFTI Regulation is only intended to facilitate and encourage the provision of information between the economic operators and competent authorities by electronic means, it should be without prejudice to the provisions of Union legal acts or national law determining the content of regulatory information.
426. For example, pursuant to subsection 1 of § 29 of the Road Transport Act²¹⁵, the carrier or undertaking engaging in own-account carriage must ensure that the driver carries the following document:
- upon engaging in the carriage of goods, a copy of the licence, where required;
 - the driver attestation, where required;
 - documents arising from an international agreement.
427. Upon the carriage of goods for hire or reward²¹⁶, the driver must carry a carriage document with the following data, pursuant to subsections 3 and 4 of § 29:
- the name and address of the sender of goods;
 - the name and address of an Estonian or foreign carrier;
 - the name and address of the recipient of the goods;
 - the point where the goods are loaded and date of loading;
 - the point where the goods are unloaded;
 - the general name of the goods;
 - the gross mass of the goods or, if the gross mass cannot be determined, the quantity of the goods in other units of measurement.
428. Subsection 1 of § 53 of the Aviation Act²¹⁷ provides that the Convention for the Unification of Certain Rules for International Carriage by Air applies to domestic air transport. In accordance with Article 5 of this Convention, The air waybill or the cargo receipt²¹⁸ shall include:
- an indication of the places of departure and destination;
 - if the places of departure and destination are within the territory of a single State Party, one or more agreed stopping places being within the territory of another State, an indication of at least one such stopping place; and
 - an indication of the weight of the consignment.

²¹⁵ Road Transport Act – RT I, 22.12.2023, 7.

²¹⁶ Road transport where goods are carried for hire or reward.

²¹⁷ Aviation Act – RT I, 20.3.2024, 2.

²¹⁸ A cargo receipt is a document issued instead of an air waybill.

429. In the course of the discussion seminar, it was also found that it is important to identify and associate a natural person with legal persons. In practice, this would lead to a situation in which personal data must be processed for identification to establish a link with a legal person. This would constitute the processing of personal data, and therefore, the processing of such personal data must comply with the rules for the processing of personal data.
430. Point (4) of Article 3 of the EFTI Regulation also provides for the concept of ‘electronic freight transport information’ or ‘eFTI’ which means a set of data elements that are processed by electronic means for the purpose of exchanging regulatory information among the economic operators concerned and between the economic operators concerned and competent authorities. The set of data subjects referred to also includes personal data. The eFTI Regulation does not provide for exceptions to the application of the GDPR and therefore the processing of personal data and the data objects and sets of data objects containing personal data must be subject to the GDPR and other legal acts governing the processing of personal data.
431. In addition to the rules for the processing of personal data, the requirements of Article 3 of the eFTI Regulation should be taken into account when establishing access. Article 3 of the regulation on access to competent authorities sets out in more detail the information and template for requests, responses, and follow-up communication for access to eFTI data. Under this provision, an application for access to eFTI data must contain the following:
- the UIL or identifier of the eFTI data allowing to search the register of identifiers²¹⁹;
 - data relating to the access rights of an officer of the competent authority responsible for making the request;
 - the unique identification number of the application, provided by the AAP.
432. If an officer from the competent authority finds that the information provided by an economic operator on an eFTI platform in response to a request for access to eFTI data is incomplete or does not meet the regulatory information requirement on which the request is based, they can inform the economic operator about these findings by initiating a specific follow-up communication. Any such follow-up communication must be in accordance with the national provisions of law applicable to the follow-up to compliance checks. Since the eFTI Regulation does not provide for exceptions from the GDPR, the procedures and practices for follow-up communication must, inter alia, comply with the requirements laid down in the GDPR to comply with other personal data protection legal acts. This follow-up communication must contain the following information:
- information to be provided to the economic operator by the competent authority;
 - the UIL of the eFTI data and the unique identification number of the request for access to such data.
433. Pursuant to recital 15 of the eFTI Regulation, functional requirements should be laid down for eFTI platforms that economic operators should use to make available in electronic form the freight transport information provided for by provisions of law to the competent authorities in order to comply with the conditions for the mandatory acceptance of that information by the authorities. These requirements should also be laid down for service providers of third-party environments. Those requirements should primarily ensure that all eFTI data can only be processed under a comprehensive rights-based access control system. This will enable the assignment of functions so that all competent authorities, in line with their respective regulatory enforcement competence, can immediately access the relevant data. Thus, personal data can be processed electronically in accordance with the GDPR, and sensitive commercial information can be processed in a way that allows compliance with the requirement to ensure the confidentiality of such information.

5.4.2. Persons involved in data exchange and their roles

434. Pursuant to points (a) and (b) of Article 1 of the eFTI Regulation, the eFTI Regulation lays down (1) the conditions based on which competent authorities are required to accept regulatory information when that information is made available electronically by the economic operators concerned, and (2) rules on the

²¹⁹ Pursuant to Article 11(1) of the regulation on access to competent authorities, a register of identifiers is a register that allows for the uploading, activation, deactivation, or erasure of the UIL and the corresponding identifiers of the eFTI database.

provision of services related to making regulatory information available electronically by the economic operators concerned to competent authorities.

435. Within the meaning of the eFTI Regulation, the parties involved in the exchange of data can be identified as:
- 1) the competent authorities that must accept the information;
 - 2) the economic operators concerned who can make information available to competent authorities;
 - 3) third parties who have access to the data and process the data in the performance of the task assigned to them or persons who process personal data on behalf of another person.
436. Pursuant to point (3) of Article 3, a ‘competent authority’ means a public authority, agency or other body which is competent to perform tasks pursuant to the legal acts referred to in the eFTI Regulation and for which access to regulatory information is necessary, such as checking, enforcing, validating or monitoring compliance on the territory of a Member State;
437. Pursuant to point (14) of Article 3 of the eFTI Regulation, an ‘economic operator concerned’ means a transport or logistics operator, or any other natural or legal person, who is responsible for making regulatory information available to competent authorities in accordance with the relevant regulatory information requirements.
438. In addition, point (11) of Article 3 of the eFTI Regulation also refers to an ‘eFTI platform developer’ which means a natural or legal person which has developed or acquired an eFTI platform²²⁰ either for the purpose of processing regulatory information related to its own economic activity or for putting that platform on the market.
439. Point (13) of Article 3 of the eFTI Regulation also defines the ‘eFTI service provider’ as a natural or legal person which provides an eFTI service²²¹ to the economic operators concerned on the basis of a contract.

5.4.3. Legal basis/bases for the processing of personal data

440. Pursuant to point (8) of Article 3 of the eFTI Regulation, ‘processing’ means an operation or set of operations performed on eFTI, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making eFTI available, alignment or combination, restriction, erasure or destruction.
441. Where personal data is processed under the eFTI, there must be at least one legal basis for this, as outlined in Article 6 of the GDPR.
442. To determine the legal basis/bases for processing personal data, the principal activities of data processing must be mapped in advance. The principal activity is the primary function that an economic operator or institution is established for or at least one of its key activities. In defining the principal activity, we do not include support activities. The processing of an economic operator’s or institution’s own employees’ data (eg salary and holiday accounting, access rights management) does not constitute a principal activity.²²²
443. The legal basis for the processing is based on the operation resulting from the principal activity of the person involved in the data exchange. In the context of the eFTI, the following examples of data processing can be identified:
- where the competent authority has to verify the data in the public interest, the processing of data is necessary for the performance of a task carried out in the public interest pursuant to Article 6(1)(e) of the GDPR;
 - where the economic operator concerned draws up an electronic waybill pursuant to law, it can be considered as a statutory obligation to process data on the basis of Article 6(1)(c) of the GDPR;

²²⁰ An eFTI platform means a solution based on information and communication technology (ICT), such as an operating system, an operating environment, or a database, intended to be used for the processing of eFTI (Article 3 (10) of the eFTI Regulation).

²²¹ ‘eFTI service’ means a service consisting of eFTI processing by means of an eFTI platform, alone or in combination with other ICT solutions, including other eFTI platforms (Article 3 (12) of the eFTI Regulation).

²²² Isikuandmete töötleja üldjuhend. Data Protection Inspectorate. Confirmed 31.5.2018, amended 19.3.2019 p. 16.

- if the carrier of the goods has to provide data to the recipient of the goods on the basis of obligations arising from the contract, this is the processing of data necessary for the performance of a particular contract on the basis of Article 6(1)(b) of the GDPR.

444. The legal basis for the processing of personal data derives from the principal activity of the data processor and the data processing operation, respectively. Since the purpose and principal activity of data processing may vary within the meaning of the eFTI, the same legal basis cannot always be relied on. Therefore, the legal basis for data processing must be analysed and assessed based on the specific circumstances that characterise the processing of the data.

5.4.4. Data retention period

445. The eFTI Regulation does not make any distinctions from the broader data protection principles outlined in the GDPR, which emphasise data minimisation and limitation. This means that personal data should not be stored for longer than is necessary in view of the purpose of the processing.²²³ Therefore, according to the eFTI Regulation, data relating to transport operations must be retained for the minimum period necessary to fulfil the purposes for which the data was collected and processed.

446. Data related to transport will be stored for as long as necessary to fulfil the purpose, ensuring the rights of the data subject. Often, this period can span several years, depending on the specific national legal acts regarding the archiving of business documents.

447. For example, under point (h) of Article 6(2) of the eFTI regulation on access to competent authorities, the eFTI Gate must retain and keep logs available for audit for at least two years, or longer as mandated by national provisions of law regarding the availability of evidence of compliance with the provisions requiring access to eFTI data. Subsection 1 of § 12 of the Accounting Act provides that accounting source documents must be preserved for seven years. The consignment note and the data made available on it via the eFTI platform are considered accounting source documents. Even though the eFTI Gate does not store the consignment note and its data, the information about the creation of the consignment note should be stored in the eFTI Gate. Without this information, the relevant data set would not have a separate evidentiary value. Having the information about the creation of the consignment note in the eFTI Gate allows for reliable confirmation that such a data set corresponding to the consignment note has actually been created. Therefore, the relevant information should be stored in the eFTI Gate for as long as the statutory period for storing the source document expires.

448. In the case of cabotage operations, the carrier must retain the data for 8 weeks, or 56 days, from the date of departure from the Member State.²²⁴ It is necessary for economic operators to be able to provide authorities with documents, such as waybills and tachograph data, confirming the location of the vehicle every 8 weeks, or for the last 8 weeks, upon request by the authorities.²²⁵ The requirement for carriers to provide evidence that the vehicles at their disposal return to their place of business in their Member State of establishment within at least 8 weeks arises from Article 1 of Regulation 2020/1055 of the European Parliament and of the Council.²²⁶

449. Therefore, if the eFTI does not set more specific deadlines for the retention of data, it must be based on the deadlines of other legal acts. If there is no regulation on data retention, the deadline for data retention is established based on the nature, scope, context, and purpose of the data processing.²²⁷

5.4.5. Summary

450. The eFTI Gate is not a database according to the database regulation set out in the Public Information Act. The eFTI Gate is an IT solution that supports the exchange of data between the eFTI platforms and the competent authority. Legal issues related to the eFTI Gate as an IT solution must be addressed in a special

²²³ Isikuandmete töötleva üldjuhend. Data Protection Inspectorate. Confirmed 31.5.2018, amended 19.3.2019 p. 31.

²²⁴ Official website of the European Union. Regulation applicable from 21 February 2022 on the return of the vehicle. [Link](#).

²²⁵ Ibid.

²²⁶ Regulation (EU) 2020/1055 of the European Parliament and of the Council of 15 July 2020 amending Regulations (EC) No 1071/2009, (EC) No 1072/2009 and (EU) No 1024/2012 with a view to adapting them to developments in the road transport sector. – OJ L 249, 31.7.2020, pp. 17–32.

²²⁷ Isikuandmete töötleva üldjuhend. Data Protection Inspectorate. Confirmed 31.5.2018, amended 19.3.2019 p. 50.

law (for example the Road Transport Act). It is important to appoint a responsible person at the ministry level (for example, the Ministry of Climate or Ministry of Economy and Communications) to ensure the field's development. Where the law and the organisation of work applicable to the national competent authorities require that data obtained via the eFTI Gate be processed in the competent authorities' databases, an assessment must be made to determine if the databases' statutes allow for the processing of the relevant data and if the databases are technically capable of processing the data in accordance with the eFTI Regulation and Estonian national law. If necessary, new databases may need to be created. In any case, both legal and technical preparedness must be established for the competent authorities to process data received or to be transmitted via the eFTI Gate.

5.5. Requirements related to the exchange of data

451. Regulations can establish specific requirements related to the exchange of data, such as specific data transfer conditions, security and privacy standards, or access rights and their control.
452. Pursuant to Article 4(2) of the eFTI Regulation, the economic operators concerned make regulatory information available electronically to a competent authority on the basis of data processed on a certified eFTI platform and, if applicable, by a certified eFTI service provider. That regulatory information shall be made available by the economic operators concerned in a machine-readable format²²⁸ and, at the request of the competent authority, in a human-readable format²²⁹.
453. Pursuant to Article 4(3) of the eFTI Regulation, Information in machine-readable format shall be made available via an authenticated and secure connection to the data source of an eFTI platform. Pursuant to Article 6 of the eFTI Regulation, competent authorities, eFTI service providers and the economic operators concerned shall take measures to ensure the confidentiality of commercial information that is processed and exchanged in accordance with this Regulation and ensure that such information may be accessed and processed only when authorised.
454. Pursuant to Article 9 of the eFTI Regulation, the eFTI platforms shall meet the necessary functional requirements. In particular, eFTI platforms shall provide functionalities that ensure that personal data can be processed in accordance with the provisions of the GDPR, and eFTI platforms must ensure that commercial information can be processed in a manner that ensures confidentiality and takes the necessary measures to that end.

5.6. Requirements related to authentication and declaration of intent

455. To ensure that both competent authorities and economic operators have confidence in meeting the functional requirements of eFTI platforms and eFTI service providers, Member States should establish a certification system based on accreditation under Regulation (EC) No 765/2008 of the European Parliament and of the Council.
456. To benefit from this certification, providers of ICT systems already in use are invited to ensure that their systems comply with the requirements of the eFTI platforms set out in the eFTI Regulation and to apply for certification. Certification of ICT systems should occur without delay.

5.6.1. Authentication

457. Pursuant to Article 4(3) of the eFTI Regulation, information in machine-readable format shall be made available via an authenticated and secure connection to the data source of an eFTI platform
458. Although the eFTI platform does not provide for specific authentication requirements, Article 8(1) of the eFTI Regulation provides that the Commission shall adopt implementing acts laying down common procedures and detailed rules, including common technical specifications, for access by competent

²²⁸ 'Machine-readable format' means a way of presenting data in an electronic form that can be used for automatic processing by a machine (Article 3 (16) of the eFTI Regulation).

²²⁹ 'Human-readable format' means a way of presenting data in an electronic form that can be used as information by a natural person without requiring any further processing (Article 3 (15) of the eFTI Regulation).

authorities to eFTI platforms, including procedures for the processing of regulatory information and for communication between competent authorities and the economic operators concerned in relation to that information.

459. Pursuant to point (a) of Article 2(2) of the regulation on access to competent authorities, ICT systems²³⁰ are required to ensure proper authentication of officers of competent authorities each time an officer submits a request for access to eFTI data.
460. In addition, point (a) of Article 4(2) of the implementing regulation provides that Authority Access Points²³¹ must have the functionality to authenticate the identity of the competent authority officers, or ensure the authentication of the identity of the competent authority officers.

5.6.2. Logs

461. Pursuant to point (a) of Article 9(1) of the eFTI Regulation, data may only be processed with authorisation and based on authorised access. To ensure this, a log must also be kept of the use of access and of the various work operations attesting to the execution of the authorised access and/or operation.
462. Point (g) of Article 9(1) of the eFTI Regulation stipulates that all data processing is duly recorded in operation logs in order to allow, as a minimum, the identification of each distinct:
- processing operation;
 - the natural or legal person having made the operation;
 - the sequencing of the operations on each individual data element
463. In addition, the abovementioned provision of the eFTI Regulation provides that the original data element is retained if an existing data element is modified or erased in the course of an operation. This means that changes to the data must be traceable, and the data will not be erased after modification and/or replaced with new data.

5.6.3. Signing

464. By mode of transport, there are no uniform agreements at international level to record digital events as a declaration of intent. It was stated in the discussion seminars that there are currently no statutory formal requirements for freight transport information. In practice, means of identification that are either handwritten (that is, in writing) or written on a screen (that is, in a format that can be reproduced in writing) are common. However, whether these methods are sufficiently safe and appropriate in light of technological developments is questionable. The eFTI implementing acts should specify the authentication and signature methods and format requirements for data exchange via the eFTI platform and the eFTI Gate. It should be noted that signing is based on convenience and the prevalence and availability of the infrastructure required for e-signatures. In order to achieve the necessary critical mass of users for system usage, it is important to accept widely used e-signature methods, such as drawing a signature on the screen. Format requirements (format that can be reproduced in writing, format in writing, electronic format, etc) fall under the competence of the Member State legislature. However, preference should be given to the more common means of certifying or signing a transaction/document to ensure the functioning and digitisation of cross-border transactions and operations processes.
465. The format of operations (electronic format equivalent to written format or a format that can be reproduced in writing) that is appropriate for validating (signing) information and data remains unclear. Europe does not have a single common e-signature system. The number of users of many certified e-signature systems does exceed the critical number. Market participants believe that the requirement for a certified e-signature (ie, the digital signature in Estonia) is disproportionately burdensome. The preferred option is to give confirmations by pressing a button while logged in to the system. The different technological solutions used must therefore be taken into account when setting up eFTI platforms. As noted above, for signature

²³⁰ 'ICT component' means a material (hardware) or immaterial (software) unit or set of such units used to perform specific functionalities to enable electronic data communication (point (2) of Article 1 of the implementing regulation).

²³¹ 'Authority Access Point (AAP)' means an ICT component or a set of ICT components performing the functionalities set out in Article 4 (point (11) of Article 1 of the implementing regulation).

requirements, it is important that the EU legislator devise an implementing act for the eFTI Regulation on (e-)signature requirements

5.6.4. Summary

466. Authentication in eFTI systems must be secure. However, the eFTI Regulation does not lay down requirements for authentication. Data processing (including the exercise of the right of access) must be traceable, and a log of all processing operations (including data viewing) must be kept, which helps to assess the lawfulness of the processing. Due to the delay in the adoption of the eFTI implementing acts, at the time of completion of the final report, it remains unclear in which format the operations (electronic format equivalent to written format or a format that can be reproduced in writing) are appropriate for validating (signing) information and data.

5.7. Requirements relating to administrative procedure

5.7.1. Immediate access to regulatory information

467. Pursuant to Article 10 of the eFTI Regulation, eFTI service providers shall ensure that competent authorities have immediate access to regulatory information concerning a freight transport operation processed by means of their eFTI platforms. The eFTI Regulation does not explicitly define the concept of immediate access. However, by interpreting Article 10 in connection with Article 8(1) and recital 8 of the eFTI Regulation, immediate access can be understood to mean that access is considered immediate if it does not involve separate charges or fees.

468. In particular, pursuant to recital 18 and Article 8(1) of the eFTI Regulation, implementing powers should be conferred on the Commission to establish common procedures and detailed rules for competent authorities for the access to and processing of that regulatory information where the economic operators concerned make that information available electronically.

469. An implementing regulation laying down common procedures and detailed rules is being prepared by the European Commission.²³² Pursuant to recital 17 of the draft implementing regulation, Member States should ensure that all accessing and processing by competent authorities, through their respective officers, of data made available by economic operators on eFTI platforms is allowed only following due identification and authentication of the identity of those officers and they have been authorised to access and process the data.

470. Pursuant to Article 3(1) of the draft implementing regulation, in order to obtain the relevant authorisation, competent authority officers shall lodge all requests for access to eFTI data, ie, a request on behalf of a competent authority to receive the eFTI data made available by economic operators on an eFTI platform (Article 1 (5) of the implementing regulation).

471. In accordance with Article 5 of the implementing regulation, Member States shall ensure that the rights of their competent authority officers to process eFTI data are recorded and kept up to date in an authorisation registry. The authorisation registry shall include, for each competent authority officer, at least the following:

- the access rights of the respective officer, expressed as the list of references of the Union and national legal acts that require the provision of regulatory information, for which the respective officer has competences;
- the processing rights of the respective officer, expressed as coded references to the processing operations that the officer has the right to perform on each of the respective eFTI data subsets, in line with the applicable Union or national legal acts determining the competences of that officer.

472. Thus, competent authority officers have immediate access to the regulatory information and the right to process data only after the officers have submitted a request for access to the eFTI data and have been granted permission to access and process the data. Access to and processing of data shall be permitted to the extent laid down by Union or national legal acts.

²³² Register of delegated acts and implementing acts. Implementing regulation in preparation for the eFTI Regulation. [Link](#).

473. In national law, the general basis for access to data derives from § 38 of the Administrative Procedure Act. Its subsection 1 provides that in administrative proceedings, an administrative authority has the right to require participants in proceedings and other persons to provide evidence and information which is known to them and on the basis of which the administrative authority establishes the facts relevant for adjudication of the matter. Pursuant to subsection 2 of § 38 of the Administrative Procedure Act, explanations of participants in proceedings, documentary evidence, physical evidence, on-the-spot visit of inspections, testimonies of witnesses and opinions of experts may serve as evidence. An electronic waybill also meets the definition of documentary evidence.

5.7.2. Initiation of administrative procedure in an automated manner

474. With the termination of the term of authority of the membership of the Riigikogu, the bill to amend the Administrative Procedure Act and other related acts (634 SE)²³³ (bill to amend the Administrative Procedure Act) was withdrawn from the proceedings of the Riigikogu. The purpose of the bill to amend the Administrative Procedure Act was to make changes to the Administrative Procedure Act that would allow automatic administrative procedures to be carried out. According to the explanatory memorandum to the bill to amend the Administrative Procedure Act (explanatory memorandum to the bill), automatic administrative procedure refers to a process where, if the state has enough data and no additional investigation is needed, a decision is made solely through an electronic information system, without the direct involvement of an officer or employee representing the administrative authority.

475. According to the explanatory memorandum to the bill, the amendment of the Administrative Procedure Act would have involved both automatic actions (eg the decision not to review the application for an administrative act) and the automatic execution of certain physical acts (eg payment of money). In doing so, an automatic action, which does not restrict the rights of a person, could have been carried out even without a specific legal basis providing for the performance of the automatic action (subsection 1 of § 5 and subsection 1 of § 107 of the Administrative Procedure Act).²³⁴

476. When amending the Administrative Procedure Act, the law would have provided for the possibility of proactive action, ie, action taken on the state's initiative if it is in the interests of the person.²³⁵ Clauses 2 and 3 of subsection of § 35 of the Administrative Procedure Act currently in force also allow administrative proceedings to be initiated by the administrative authority for issuing an administrative act or for executing an act. However, for automatic administrative proceedings to be initiated, a special law must provide for this possibility. Since the bill to amend the Administrative Procedure Act was withdrawn from the proceedings due to the termination of the term of authority of the membership of the Riigikogu, in practice, an automated procedure is still possible if the special law provides for such a possibility.²³⁶ For example, pursuant to subsection 1 of § 46² of the Taxation Act, the tax authority for state taxes may issue an administrative act and a document in an automated manner without the direct intervention of an official of the tax authority.

477. In principle, in addition to administrative procedure, automatic decisions can also be made when investigating offences and in relation to offences. Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (Directive 2016/680) (**Law Enforcement Directive**).

478. Pursuant to sub (4) of Article 3 of the Law Enforcement Directive, the Directive may apply to the automated processing of personal data by any means. Point (1) of Article 11 of the Law Enforcement Directive lays down rules on decisions based on automated processing of personal data. However, the Directive does not stipulate that it should be an administrative decision in a formal or substantive sense. Any decision which has the characteristic of having legal consequences for the data subject or significantly affecting them in any other way may fall within the scope of the Directive. Subsection 1 of § 21 of the Personal Data Protection Act essentially repeats the Law Enforcement Directive. Automatic processing of personal data

²³³ Act to amend the Administrative Procedure Act and other acts related thereto 634 SE. [Link](#).

²³⁴ 634 SE explanatory memorandum, p. 9.

²³⁵ 634 SE explanatory memorandum, p. 14.

²³⁶ 634 SE explanatory memorandum, p. 4.

and decisions based solely on such processing which lead to adverse legal consequences for the data subject or have other significant effects on the data subject also fall within the scope of subsection 1 of § 21 of the Personal Data Protection Act.

479. It is important to understand the meaning of 'automated decision'. The Law Enforcement Directive refers to automated decisions in its recital 38, which states that 'the data subject should have the right not to be subject to a decision evaluating personal aspects relating to him or her which is based solely on automated processing and which produces adverse legal effects concerning, or significantly affects, him or her'. The definition of automated decision set out in this recital is the same as the definition of 'automated decision' set out in the GDPR. Since the definition of 'automated decision' is the same in both legal acts, the interpretation of 'automated decision' in the context of the present analysis can also be based on sources which refer to the term from the point of view of the GDPR.
480. Automated processing is regulated in the GDPR. Estonian law does not currently have any national legal act regulating automated processes in the public sector, which relies on artificial intelligence, machine learning, or other technologies. Such systems have several advantages — faster (internal) processes and less time required for procedures, smarter use of human labour, promotion of innovation through its use, etc — to name a few benefits. However, the promotion and use of innovation in these technologies entails legal and, in some cases, ethical risks. The legal literature has identified risks related to unlawful infringements of privacy, protection of personal data, human dignity, equal treatment, and the right to a fair (judicial) procedure as the main potential problems.
481. Both the Law Enforcement Directive and the General Data Protection Regulation strictly regulate automated decisions because they involve high risks to the fundamental rights and freedoms of data subjects. This is because automated decisions are made without human intervention. Making decisions without human intervention creates an above-average risk of harming the data subject.
482. Automated decision-making may or may not be preceded by profiling of the data subject. 'Profiling' is defined in the Law Enforcement Directive as any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning that natural person's performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements. Thereby, profiling may, but does not have to be done without human intervention. The legal literature has explained what 'evaluation of personal aspects' means in the context of the concept of profiling. Since 'profiling' is defined in the same way in both the GDPR and the Law Enforcement Directive, these terms must be interpreted in the same way. The European Data Protection Board has explained that profiling involves making judgements about the data subject. The European Data Protection Board has explained that simply categorising data subjects based on known criteria (eg, age, gender, and height) does not constitute profiling. Profiling has to include something more. It must involve predicting the behaviour of the data subject or drawing conclusions about them. With regard to profiling, it is important to bear in mind that Article 11(3) of the Law Enforcement Directive prohibits profiling that results in discrimination against natural persons on the basis of special categories of personal data referred to in Article 10 of the Law Enforcement Directive.
483. It is important to understand that an automated decision does not necessarily have to be accompanied by legal consequences (eg, administrative act, etc) One of the conditions for an automated decision is, as also explained above, that the decision is accompanied by 'legal effects' or 'affecting significantly'. Thereby, 'affecting significantly' means that a decision either partially or completely alters, affects, or otherwise shapes the rights or obligations of the data subject.
484. In its decision No. 3-21-979, the Supreme Court has clarified that the general principles (eg the principle of investigation, the precautionary principle, and the obligation to inform the public) apply regardless of whether an officer or an automated information system makes the individual decision. The Supreme Court stated unequivocally that the use of an automated system in itself does not relieve the administrative authority from the obligation to comply with any relevant provision of law. The peculiarities of the computer programme that controls the operation of the information system and the administrative rule on which the programme is based also cannot exempt the administrative authority from this. In the abovementioned judgment, the court stated that an individual decision based on automated processing is not unlawful simply because a particular possibility of making an individual decision based on automated processing is not provided for by law or regulation. The Supreme Court has explained in paragraph 41 of Judgment 3-21-979 that the administrative authority utilising the relevant information system is ultimately responsible for

the legality of any automated administrative decision. The administrative authority must ensure that the basic data used by the information system is correct, complete, and up to date and that the information system complies with all requirements of applicable law, including general principles of law and rules requiring interpretation. In the case of assessment and discretionary decisions, the administrative authority may only apply a system which ensures that all relevant factors are taken into account and is based only on relevant circumstances (subsection 2 of § 4 of the Administrative Procedure Act). If the available technology does not allow these requirements to be met, the decision-making must involve human intervention. The administrative authority must conduct a detailed assessment of the malpractice risk before applying a system that generates automatic administrative decisions. To manage standard cases, the administrative authority can employ administrative rules and develop computer programmes for their implementation. However, the authority must always be ready to address specific cases that lack solutions in the administrative rules or where the provided solutions are not appropriate. These principles also apply in relations between administrative authorities, ie situations in which one administrative authority makes decisions for or for the benefit of another in cases prescribed by law.

485. The Supreme Court stated in paragraph 40 of Judgment No 3-21-979 that, pursuant to point (b) of Article 22(1) of the GDPR, it is necessary, under certain circumstances, to provide for an appropriate legal basis by a national law or regulation to make individual decisions based on the automated processing of personal data. The registration of forest notifications is not an automatic decision governed by Article 22 of the GDPR, since it is not based on personal data, but on environmental information, spatial data, etc. It cannot be ruled out that, even outside the scope of Article 22 of the GDPR, an appropriate authorising provision may, in some cases, be necessary for making important administrative decisions using more complex technologies, such as self-learning algorithms, pursuant to subsection 1 of § 3 of the Constitution.
486. The processing of personal data through automated decision-making and information technology solutions, without human intervention, may necessitate legal clarity and adherence to the requirements for protecting the rights of data subjects in accordance with applicable laws.

5.7.3. Summary

487. The Administrative Procedure Act sets out the general principles relating to administrative procedure, including the administrative authority's right to require the submission of evidence and data from a party to the procedure and other persons in the course of an administrative procedure. Another person within the meaning of the Administrative Procedure Act may also be the operator of an eFTI platform as a service provider. The information and evidence that an administrative authority may require in an administrative procedure may also be electronic. The implementation of the eFTI may also create prerequisites for the automation of certain administrative activities, but this can only be done if a special law provides for such a possibility. The decision on whether a legal act should allow for the automation of certain administrative procedures needs to be evaluated on a case-by-case basis. This assessment should consider the necessity of protecting personal data and trade secrets, as well as the risks associated with automation. Specifically, the level of automation must be proportionate to its role in performing public functions, meaning it should be appropriate, necessary, and moderate.

5.8. Requirements related to the state supervisory procedure

488. Pursuant to subsection 3 of § 30 of the Law Enforcement Act, the police or, in the cases provided by law, another law enforcement agency may require a person to present their documents if there is reason to believe that the person has information necessary for preventing, ascertaining or countering a threat or for eliminating a disturbance or for guaranteeing the safety of a safeguarded person or object, and preventing, ascertaining and countering that threat and eliminating that disturbance and safeguarding the person or object is in the competence of the law enforcement agency requiring the presentation of the documents.
489. Prevention of a threat is that part of law enforcement where there is no suspicion of a threat but where a situation in the occurrence of which a suspicion of a threat or a threat will arise can be deemed possible (subsection 7 of § 5 of the Law Enforcement Act). Prevention of a threat is, among other things, the collection, exchange and analysis of information, and the planning and execution of actions as well as the application of measures of state supervision for countering threats possibly endangering public order in the future, including the prevention of offences (subsection 7 of § 5 of the Law Enforcement Act). The above

also concerns the follow-up checks after the freight transport, eg in the case of cabotage operations, the carrier must retain data for 8 weeks, or 56 days, from the date of departure from the Member State.²³⁷ It is necessary for economic operators to be able to provide authorities with documents, such as waybills and tachograph data, confirming the location of the vehicle every 8 weeks, or for the last 8 weeks, upon request by the authorities.²³⁸

490. Pursuant to subsection 3 of § 30 of the Law Enforcement Act, the PBGB and other law enforcement agencies have jurisdiction to apply the special measure for requesting documents. Accordingly, the PBGB has the right to collect freight transport information to prevent a threat, in so far as the PBGB exercises state supervision based on the Road Transport Act over compliance with road transport documents, road safety, and road transport requirements to counter threats that may threaten the public in the future.
491. The special law enforcement agency (ie ETCB, CPTRA, Transport Administration, and Environmental Board) has the competence to apply a special measure requiring documents if a special law confers on it the competence to apply such a special measure. The ETCB has the right to request documents to exercise state supervision pursuant to subsection 2 of § 50 of the Road Transport Act and § 119¹ of the Waste Act. The relevant provisions provide that the ETCB may apply the special measure of state supervision provided for in § 30 of the Law Enforcement Act to carry out state supervision, ie, request documents. The competence of the Transport Administration to apply the special measures for requesting documents provided for in § 30 of the Law Enforcement Act derives from subsection 1 of § 60² of the Aviation Act. The Environmental Board has the right to request documents pursuant to § 119¹ of the Waste Act.

Table 14. Overview of the right of competent authorities to request documents within the meaning of the eFTI Regulation

Scope of regulation	of Estonian legal act	Information	Provisions delegating authority	Competent authority	Relevant measures	specific
Waste shipments ²³⁹	Waste Act	Movement document for hazardous waste	subsection 6 of § 119	Environmental Board; ETCB	Questioning and requiring of documents (§ 30 of the Law Enforcement Act) Using monitoring equipment (§ 34 of the Law Enforcement Act)	
Requirements for combined transport ²⁴⁰	Road Transport Act	Carriage document	Subsection 2 of § 50	ETCB; PBGB	Questioning and requiring of documents (§ 30 of the Law Enforcement Act)	
Abolition of discrimination in transport rates and conditions ²⁴¹	-	-	-	-	-	
Access to the road transport market,	Road Transport Act	Information on international transport	Subsection 2 of § 50	PBGB	Questioning and requiring of documents (§ 30 of the Law Enforcement Act)	

²³⁷ Official website of the European Union. Regulation applicable from 21 February 2022 on the return of the vehicle. [Link](#).

²³⁸ Ibid.

²³⁹ Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006, point c of Article 16 and Article 18(1) – OJ L 190, 12.7.2006, pp. 1–98.

²⁴⁰ Council Directive 3/EEC of 7 December 1992 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States (OJ L 368, 17.12.1992, p. 38–42).

²⁴¹ Proposal for a Regulation of the European Parliament and of the Council amending Regulation No 11 concerning the abolition of discrimination in transport rates and conditions, in implementation of Article 79(3) of the Treaty establishing the European Economic Community and Regulation (EC) No 852/2004 of the European Parliament and the Council on the hygiene of foodstuffs – 2007/0037 (COD).

Scope regulation	of	Estonian legal act	Information	Provision s delegating authority	Competent authority	Relevant measures	specific
cabotage operations ²⁴²			and cabotage operations				
Security of civil aviation ²⁴³		Aviation Act	Air waybill or declaration	Subsection 1 of § 60 ²	Transport Administration	Questioning and requiring of documents (§ 30 of the Law Enforcement Act)	
Road, rail and waterborne transport of dangerous goods		Railways Act	Rail transport of dangerous goods	Subsection 2 of § 147	CPTRA	Questioning and requiring of documents (§ 30 of the Law Enforcement Act) Right of free access to documents related to the object of supervision (subsection 2 of § 147 of the Railways Act)	
		Road Transport Act	Documents accompanying the cargo (including the certificate of authorisation for the carriage of dangerous goods by road)	Subsection 2 of § 50	ETCB; PBGB	Questioning and requiring of documents (§ 30 of the Law Enforcement Act)	

492. It can be concluded based on the above that all competent authorities within the meaning of the eFTI Regulation have the right to request documents provided for by a special law.
493. The principle is that a person cannot be asked for information that they have already provided to the State through its various bodies. Subsection 5 of § 30 of the Law Enforcement Act provides that questioning and requiring the presentation of documents for the prevention of a threat is not permitted in the case of information and documents which can be obtained from a database established on the basis of the law, except in the case the information cannot be obtained from the database for reasons irrespective of the law enforcement agency. The restriction specified in this section also applies to information which the law enforcement agency can obtain free of charge from the relevant database of another Member State of the European Union or for a charge if the person confirms in a form that can be reproduced in writing that they will cover the costs of obtaining the said information. According to the explanatory memorandum of the Law Enforcement Act, subsection 5 of § 30 of the Law Enforcement Act establishes a key principle in public administration: a person cannot be required to provide information that they have already submitted to the State through its various agencies.²⁴⁴
494. One of the objectives of the eFTI has been to give competent authorities access to electronic freight transport information made available by economic operators precisely for the purpose of reducing administrative burdens. However, in view of the application of subsection 5 of § 30 of the Law Enforcement Act, it must be taken into account that no separate database is created in the eFTI architectural solution. In light of the foregoing, it may also be necessary to clarify subsection 5 of § 30 of the Law Enforcement Act. This means that in order to implement the once-only principle, the scope of subsection 5 of § 30 of the Law Enforcement Act should also be extended to eFTI platforms that are not a database. On the other hand, it may also be sufficient to amend subsection 5 of § 30 (5) of the Law Enforcement Act as follows:

²⁴² Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market Article 8(3) – OJ L 300, 14.11.2009, pp. 72–87.

²⁴³ Commission Implementing Regulation (EU) 2015/1998 laying down detailed measures for the implementation of the common basic standards on aviation security of 5 November 2015 – OJ L 299, 14.11.2015, pp. 1–142.

²⁴⁴ Act on amendment to and implementation of the Law Enforcement Act 424 SE. Explanatory memorandum, pp. 11–12. [Link](#).

‘Questioning and requiring the presentation of documents for the prevention of a threat is not permitted in the case of information and documents which can be obtained from a database established on the basis of the law or via an information system, except in the case the information cannot be obtained from the database or via an information system for reasons irrespective of the law enforcement agency.’ The above would also guarantee the law enforcement authority the right of access to the necessary database, ie the eFTI platform.²⁴⁵

495. It is important to note that some electronic freight transport information platforms are already interfaced with national databases via the X-tee. One of the areas where electronic freight transport information must be available through the X-tee is the transport of timber. Pursuant to subsection 4¹ of § 5 of the rules on the transport of timber²⁴⁶, the electronic consignment note must be available and, if necessary, printed out to the owner, recipient, and carrier of the timber material. The electronic consignment note shall be accessible to the national supervisory authority via the data interchange layer of the national information systems, the X-tee. There is no need to amend the regulation regarding the implementation of the eFTI. In the future, data exchange between eFTI platforms and competent authorities will be conducted through the X-tee within the state. The only exception is that this data exchange will include an additional component in the form of the eFTI Gate.

5.8.1. Restrictions on data processing

496. Section 3 of the Constitution of the Republic of Estonia (the **Constitution**) establishes the general principle that public authority is exercised solely pursuant to the Constitution and laws which are in conformity therewith. The term ‘exercise’ includes any act of public authority, including the processing of personal data.²⁴⁷ To the extent that a public authority can only act based on the Constitution and the law, it raises the question in which case the public authority may process personal data.

497. Although the restriction of fundamental rights in itself is not automatically prohibited, according to § 11 of the Constitution, the circumscription of rights and freedoms must be necessary in a democratic society and may not distort the nature of the rights and freedoms circumscribed. Any violation of a fundamental right must comply with all the rules of the Constitution and be in conformity with the Constitution, both formally and materially.²⁴⁸ Formal constitutionality means that a legislative act restricting fundamental rights must comply with the requirements of jurisdiction, procedure, and format and the principles of legal reservation provided for in the first sentence of subsection 1 of § 3 and § 11 of the Constitution.²⁴⁹ Substantive conformity with the Constitution means that violations of fundamental rights must have a legitimate objective consistent with the Constitution, and the infringement must be proportionate—appropriate, necessary, and moderate—to achieve that objective. To determine the moderation or proportionality of the infringement in a specific context, the court evaluates both the degree and intensity of the interference with the fundamental right and the significance of the objective being pursued.²⁵⁰

498. According to the principle of general legal reservation, all significant decisions in matters concerning fundamental rights must be taken by the legislator.²⁵¹ Intense restrictions on fundamental rights and freedoms may only be imposed by a valid legal act. This means that in the context of the eFTI, data processing bases should also be established by law, while technical details remain under the executive authority’s mandate with an authorising provision.

499. The collection of data on natural and legal persons violates, in particular, the right to inviolability of private and family life (§ 26 of the Constitution) and the right to free self-realisation (§ 19 of the Constitution).

²⁴⁵ Ibid.

²⁴⁶ Regulation of the Minister of the Environment No. 84 of 21 December 21 2006 ‘The requirements for the transportation of timber, the deed of delivery and receipt of timber, the conveyance document and the form of the notice to be submitted to the Estonian Tax and Customs Board concerning the cutting right or timber sold or purchased’. Minister of the Environment Regulation 21.12.2006 No. 84 – RT I, 15.12.2017, 16.

²⁴⁷ Merusk, K., jt (koost). Eesti Vabariigi põhiseadus. Kommenteeritud väljaanne. Kolmas täiendatud väljaanne. Tartu: Juura 2012, p. 52, point 2.1.

²⁴⁸ RKPJKo 3-4-1-42-13, point 42; RKÜKo 3-4-1-7-01, points 12 and 14.

²⁴⁹ RKPJKo 3-4-1-3-09, points 18–19.

²⁵⁰ RKPJKo 5-19-40/36, point 52.

²⁵¹ RKPJKo 5-19-40, point 36.

5.8.1.1. Inviolability of private and family life

500. § 26 of the Constitution protects the right of a person to inviolability of his or her private and family life and prohibits the state from interfering with it in cases other than pursuant to a procedure provided by law to protect public health, public morality, public order or the rights and freedoms of others, to prevent a criminal offence, or to apprehend the offender.
501. Article 8 of the ECHR was used as an example for the wording of § 26 of the Constitution²⁵². Pursuant to its first paragraph, everyone has the right to respect for his private and family life, his home and his correspondence. According to the ECtHR, private life encompasses professional and commercial activities,²⁵³ as well as the collection and storage of public information about individuals by the authorities in information dossiers²⁵⁴. The scope of Article 8 of the ECHR is broader than that of § 26 of the Constitution, ensuring the protection of personal autonomy, identity, personal integrity, privacy, personal development, personal identification, and other qualities of personality. In the Constitution, the same values are also protected by §§ 19, 33, and 44, in addition to § 26.
502. The scope of § 26 of the Constitution extends to Estonian citizens as well as to citizens of foreign countries and stateless persons residing in Estonia. It is questionable whether the scope of § 26 of the Constitution can be extended to legal persons. Pursuant to subsection 2 of § 9 of the Constitution, the rights, freedoms and obligations set out in the Constitution extend to legal persons in so far as this is in accordance with the purpose of legal personality and with the nature of such rights, freedoms and duties. The ECtHR has in the past extended the scope of Article 8 of the ECHR to include a legal person, for example in situations where the inviolability of the legal person's seat or other business premises is at stake.²⁵⁵ The Court has previously emphasised that the term 'private life' should be interpreted as covering the professional or commercial activities of natural and legal persons.²⁵⁶ Therefore, the possible infringement of the fundamental right to privacy and business activities of legal persons should also be upheld.
503. Pursuant to the case-law of the Supreme Court, the protected area of § 26 of the Constitution also includes the metadata of a message, which does not reveal the content of the message.²⁵⁷ The Court has also given its opinion and strict guidelines on the collection of metadata.²⁵⁸ Both European and²⁵⁹ Estonian legal literature²⁶⁰ have confirmed that the risks associated with data retention can constitute a massive violation of rights, affecting a significant part of the population. The ECtHR has also taken the view that the collection of such data may infringe the rights ensured by Article 8 of the ECHR.²⁶¹ Therefore, the collection of metadata must also be seen as an infringement of fundamental rights.
504. In the case of monitoring operations, it is essential to assess, for example, the monitoring of private communications²⁶² and access to messages that have arrived and stored on a data carrier from the point of view of § 26 of the Constitution²⁶³.

5.8.1.2. Right to free self-realisation

505. In addition, the processing of personal data violates the free self-realisation of the person arising from § 19 of the Constitution. Free self-realisation means that everyone has the right to decide for themselves whether and how much data about them is collected and stored.²⁶⁴ This fundamental right may be circumscribed

²⁵² Jaanimägi, K. Oja, L. PS § 26, point 2. - Eesti Vabariigi Põhiseadus. Komm vlj. Tallinn: Juura 2020 [Link](#)

²⁵³ EIKo 28341/95, *Rotaru v. Romania*.

²⁵⁴ EIKo 13710/88, *Niemietz v. Germany*.

²⁵⁵ EIKo 13710/88, *Niemietz v. Germany*, p. 30; EIKo 37971/97, *Société Colas Est et al. v. France*, point 41.

²⁵⁶ EKO C-450/06, *Varek Sa v. Belgium*, p. 48.

²⁵⁷ RKKKo 3-1-1-51-14, point 21.

²⁵⁸ EKO C-203/15, *Tele2 Sverige AB versus Post- och telestyrelsen*.

²⁵⁹ EKO C-203/15, Advocate General H. S. Øe proposal, points 255–258.

²⁶⁰ Lõhmus, U. Veel kord õigusest sõnumi saladusele ehk kuidas 20. sajandi tehnoloogia mõjutab põhiseaduse tõlgendusi. – *Juridica* 2016/3, lk 175–183; Lõhmus, U. Quo vadis, kriminaalmenetlus? – *Juridica* 2020/3, pp. 198–209.

²⁶¹ EIKo 62617/00, *Copland v. United Kingdom*, points 43–44.

²⁶² RKKKo 3-1-1-25-03, point 8.2.

²⁶³ RKKKo 3-1-1-14-14, points 816 and 817; RKKKo 3-1-1-93-15, point 100.

²⁶⁴ Merusk, K. jt (koost), p. 250, point 3.1.2.1.

by law for reasons not expressly prohibited by the Constitution. The violation must be formally and materially consistent with the Constitution. Among other things, the violation must be proportional.²⁶⁵

506. The exercisers of the freedom of self-realisation include, in addition to natural persons, at least those legal persons whose purpose is to ensure the rights and freedoms of members or owners who are natural persons. The Supreme Court has repeatedly recognised the extension of freedom of contract to legal persons governed by private law, stating that, for example, restrictions on freedom of contract imposed on political parties limit their right to self-realisation²⁶⁶ and that the freedom of contract of undertakings may be violated by the obligation to tolerate engineering structures²⁶⁷ or the establishment of limits on the mark-up of medicinal products²⁶⁸.
507. Any negative influence by the state power violates the right to free self-realisation.²⁶⁹ The Supreme Court has also established the link between the freedom of self-realisation and the right to self-determination in cases concerning unauthorised surveillance²⁷⁰ and harassing stalking²⁷¹.
508. Thus processing data in the eFTI system for purposes beyond those outlined in the eFTI Regulation and associated legal acts may violate both privacy rights and the right to self-determination. All violations must be proportionate and based on the law.

5.8.2. Preventing offences

509. Pursuant to Articles 2(1) and 1(1) of the Law Enforcement Directive, the substantive criterion for its application is that the processing of personal data is carried out 'for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security'.²⁷² It appears that, among other things, a material criterion can be that personal data are processed (i) 'for the purposes of the prevention of criminal offences' or (ii) 'the safeguarding against and the prevention of threats to public security'. Owing to the purpose of the analysis, the question is what do 'preventing offences' and 'safeguarding against and the prevention of threats to public security' entail?
510. The term 'preventing offences' contains two elements – offence and prevention.²⁷³ No provision of the Law Enforcement Directive defines what constitutes an offence within the meaning of the Directive. A group of experts from the European Commission found that each Member State can proceed from the regulation of offences provided for in the law of the Member State.²⁷⁴ The Law Enforcement Directive also does not define the term 'prevention'. The legal literature explains that while the investigation, detection, prosecution, and enforcement of offences relate to offences that have already occurred, then the prevention of offences relates to offences that have not yet occurred. The prevention of offences can involve a wide variety of actions by public authorities. Certainly, various 'predictive policing technologies' are viewed as prevention methods, but their usage raises serious data protection concerns. As Member States use a wide variety of methods to prevent offences, the term 'prevention' is one of the most ambiguous concepts in the Law Enforcement Directive.²⁷⁵
511. The term 'safeguarding against and the prevention of threats to public security' is even broader in meaning than 'preventing offences'. The interpretation has to take into account point 12 of the Preamble to the Law Enforcement Directive, which states that the directive covers activities which include '*maintaining law and order/.../ to safeguard against and prevent threats to public security and to fundamental interests of the*

²⁶⁵ Ibid., p. 252, point 3.4.2.

²⁶⁶ RKKKo 3-1-1-67-09, point 13.3.

²⁶⁷ RKPJKo 3-4-1-3-04, point 21.

²⁶⁸ RKPJKo 3-4-1-55-14, point 56.

²⁶⁹ Vallikivi, H. PS § 19. - Eesti Vabariigi Põhiseadus. Komm vlj. Tallinn: Juura 2020. [Link](#)

²⁷⁰ RKKKo 3-1-1-124-04, point 17.

²⁷¹ RKKKm 1-18-9343/20, point 13.

²⁷² Brewczyńska, M. *A critical reflection on the material scope of the application of the Law Enforcement Directive and its boundaries with the General Data Protection Regulation. – Research handbook on EU data protection law.* Cheltenham: Edward Elgar Publishing Ltd. 2022, p. 108.

²⁷³ Ibid., pp. 108–110.

²⁷⁴ Commission Expert Group, Minutes of the meeting of the Commission expert group on the Regulation (EU) 2016/679 and Directive (EU) 2016/680 (4 May 2017), para 1. **Could not find it**

²⁷⁵ Brewczyńska, M, pp. 111–112.

society protected by law which may lead to a criminal offence'. The legal literature indicates that the actions of public authorities no longer need to be linked to offences. The term 'offence' is not used in the definition. Thus, safeguarding against and the prevention of threats involves far more activities than simply preventing offences.²⁷⁶ The term 'safeguarding against and the prevention of threats to public security' has been widely criticised because of this. The major European data protection institutions, including the European Data Protection Supervisor and WP29, opposed the inclusion of the term in question in the Law Enforcement Directive entirely. It was pointed out that 'public security' is such a broad concept that in some Member States, it involves public health and food safety.²⁷⁷ In summary, the current regulation and its interpretations allow each Member State to define for itself which activities are to be regarded in that Member State as 'safeguarding against and the prevention of threats to public security'.

5.8.3. Summary

512. Technological solutions enable to investigate and prevent offences more effectively. At the same time, the adoption of new technologies and functions must not conflict with the principles of existing laws and the rule of law, which are essential to its proper functioning. Supervisory procedure, administrative procedure, and investigations of offences must be carried out in accordance with applicable law. The introduction of any new technology, function, or method of work must be preceded by an impact assessment and a legal analysis to assess the relevance of the existing law and the possible infringement of fundamental rights. Automated decision-making and extensive data analysis for the prevention of offences violate fundamental rights so significantly that these activities should generally not be permitted.

²⁷⁶ Brewczyńska, M, p. 112.

²⁷⁷ Vogiatzoglou, P., Fantin, S. *National and public security within and beyond the Police Directive. – Security and Law. Legal and Ethical Aspects of Public Security, Cyber Security and Critical Infrastructure Security*. Cambridge, Antwerp, Chicago: Intersentia 2019, p. 4.

6. Fundamental framework for the implementation of the future solution

6.1. A fundamental solution for the regulation of eFTI requirements in national law

- 513. The eFTI Regulation establishes a framework for the safe, secure, and fully interoperable exchange of information between economic operators and authorities regarding the movement of goods within the EU. This means that the eFTI Regulation establishes a new technical framework for transmitting and receiving the information required by legal acts, rather than creating new substantive law.
- 514. As an EU regulation, the eFTI Regulation is binding in its entirety and directly applicable in all Member States (Article 288(2) of the TFEU). Pursuant to this, it is not permissible for a Member State to transpose an EU regulation by incorporating its provisions into national law.²⁷⁸
- 515. In certain cases, it may be necessary for Member States to adopt national legal acts to implement the Regulation. This legislation would establish which institutions in the Member States are responsible for applying EU law, as well as the penalties for non-compliance with obligations under the EU Regulation. In such a case, the law of the Member State implementing the EU Regulation must not conflict with EU law and the content of the national legal act must comply with the scope of the authorising provision set out in the EU Regulation.²⁷⁹
- 516. In the context of implementing the eFTI, a distinction must, therefore, be made between those requirements and conditions that do not need to be regulated by national law and those for which national regulation is necessary (for further clarification, see the following paragraphs).

Table 15. Overview of the need for national regulation

Scope of regulation	Regulated by delegated or implementing regulation	Need for national regulation
Exchange of data between economic operators and eFTI platforms	YES (partially)	YES
Technical and functional requirements for eFTI platforms, requirements for data exchange between eFTI platforms and competent authorities	YES	YES
Requirements for certification and conformity assessment of eFTI platform platforms, issuance of certificates, issuance and renewal of IT certificates, register of eFTI platforms	YES	NO/YES
Definition of competent authorities in national law	NO	YES
Conditions of access by competent authorities to freight transport information and requirements for data processing	YES	NO
Accurate data sets for freight transport information	YES	NO
The position of the eFTI Gate in the national information system and the detailed requirements for the related data exchange	NO	YES

²⁷⁸ RKPJKo 28-06-2023, 5-34-2, point 67.

²⁷⁹ Ibid.

Scope of regulation	Regulated by delegated or implementing regulation	Need for national regulation
Interfaces of the eFTI platforms and the eFTI Gate with other databases	NO	NO/YES

517. To implement the eFTI Regulation at the national level, it is essential to establish rules for the exchange of data between economic operators and eFTI platforms. This involves setting requirements for how electronic freight transport information is transmitted from the economic operator to the eFTI platform, including:
- conditions for identification
 - conditions for the identification of declarations of intent
 - the legal meaning of declarations of intent.
518. To implement the eFTI Regulation at the national level, it is essential to establish regulations for the data exchange platform connecting the eFTI platforms with the competent authorities. In the context of Estonia, this involves regulating the interface between the eFTI platforms and the eFTI Gate through the X-tee system.
519. Establishing separate requirements for the certification of eFTI platforms is not necessary for the national implementation of the eFTI Regulation. However, it is necessary to define a conformity assessment body at the national level. According to Annex II to the eFTI Regulation, a conformity assessment body is established under the law of a Member State and has a personality which must be independent of the organisation or the eFTI platform or platform service provider it assesses.
520. To implement the eFTI Regulation at the national level, it is essential to identify the competent authorities as defined in Article 3(3) of the eFTI Regulation. These authorities are responsible for carrying out tasks related to the legal acts mentioned in Article 2(1) of the eFTI Regulation and require access to the relevant information. In Estonia, these authorities are the PBGB, ETGB, Environmental Board, Transport Administration, and CPTRA.
521. To implement the eFTI Regulation, it is not necessary to specifically regulate how competent authorities access freight transport information or the requirements for data processing. This is because the relevant regulations are established by a Commission Implementing Regulation, which outlines common procedures and detailed rules for access by competent authorities. Therefore, a reference to the appropriate implementation in national law is sufficient.
522. For the implementation of the eFTI Regulation, it is not necessary to specify detailed data sets related to freight transport information, as these data sets are defined by the Delegated Regulation governing the eFTI data sets. The eFTI data subsets consist of a set of data elements structured according to Article 3(5) of the eFTI Regulation. These elements are processed electronically to facilitate the exchange of regulatory information between the relevant economic operators and the competent authorities.
523. To implement the eFTI Regulation, it is essential to define the position of the eFTI Gate within the national information system, as well as the related legal requirements for data exchange.
524. Regulating the interfaces of the eFTI Gate and eFTI platforms with databases in the national information system is not necessary for implementing the eFTI Regulation. The development of these interfaces is the responsibility of the Member States and may be driven by the need to enhance the efficiency of public services. This is based on the one-request-only principle and aims to achieve the goals of a real-time economy. The creation of such interfaces could also contribute to ensuring and supporting security (eg in the organisation of rescue operations), as well as a more effective exercise of national supervision in certain areas.
525. National law can, in principle, regulate the implementation of the eFTI in two ways:
- by introducing a new legal act;
 - by amending and/or supplementing existing legal acts.

526. Proceedings concerning draft Acts in the Riigikogu are regulated most generally by the Riigikogu Rules of Procedure and Internal Rules Act. The Rules for Good Legislative Practice and Legislative Drafting²⁸⁰ were established with a regulation of the Government of the Republic, regulating the general requirements related to preparing draft Acts. In addition, the Ministry of Justice has prepared the 'Normitehnika käsiraamat' (legislative drafting handbook), which contains explanations and instructions for more effective implementation of the Riigikogu Rules of Procedure and Internal Rules Act and Rules for Good Legislative Practice and Legislative Drafting. The legislative drafting handbook states that introducing a new Act is appropriate when the amendment involves a significant transformation of the area in question. Otherwise, the outcome may lack comprehensiveness and fail to adequately emphasise the legal and political nature and significance of the amendment.²⁸¹ If the task of amendment consists only of incorporating individual provisions into laws, clarifying or amending them, then it is not necessary to introduce a new legal act. This is because the amendments do not transform existing laws to a large extent.²⁸²
527. The implementation of the eFTI does not establish new laws regarding the content requirements for freight transport information. Instead, it introduces a new technical framework for the transmission and reception of the information specified in the legal acts, without making significant changes to the field. It is not suitable to establish a new Act for national regulation regarding eFTI; instead, amendments and additions should be made to the existing regulatory legal acts in the field. Pursuant to subsection 1 of § 32 of the rules for Good Legislative Practice and Legislative Drafting, in order to amend an Act, the text may be supplemented with new provisions. Pursuant to subsection 2 of § 32 of the rules for Good Legislative Practice and Legislative Drafting, amendments to an Act, or supplementing it with new provisions, may be proposed either by an implementing provision of a draft Act regulating a field relating to the same legal relationships, or a draft Act initiated separately for the amendment or repeal of the Act.
528. In doing so, it should be borne in mind that pursuant to subsection 1 of § 28 of the Rules for Good Legislative Practice and Legislative Drafting, in a draft Act, a provision of another Act or a provision of the same draft Act is not reproduced, but is referred to. As a result, it is also possible to formulate and provide for referencing provisions in draft Acts referring to a provision of an Act that has already entered into force (subsection 7 of § 28 (7) of the Rules for Good Legislative Practice and Legislative Drafting). The referencing provision is applied in situations where there is no need to create a separate procedure. Instead, it is sufficient to refer to the existing procedure established under another Act to address the issue.²⁸³ In the legal literature, for example, the following reference is highlighted as an example of a good referencing provision: 'The state school shall be established and its activities terminated in accordance with the procedure established on the basis of subsection 3 of § 43 of the Government of the Republic Act'.²⁸⁴ This is important given that the implementation of eFTI concerns legal acts governing different modes of transport and not only freight transport, but also the waste transport. A decision needs to be made regarding which legislation concerning the application of the eFTI should be central to national regulations. This includes considering the possibility of authorising provisions to issue implementing acts, as well as determining which legal acts should govern the referencing provisions.
529. It is important to note that not every detail and technical aspect of the national implementation of the eFTI should be regulated by legislation. Instead, it makes sense to handle these matters at the regulatory level. In practice, regulations of the Government of the Republic are adopted to implement EU regulations in Estonia. An example is the determination of the extent of the financial correction in percentages by a regulation of the Government of the Republic provided for in subsection 2 of § 46 of the 2014–2020 Structural Assistance Act. Subsection 3 of § 58 of the Rules for Good Legislative Practice and Legislative Drafting also suggests that the Government of the Republic is authorised to establish the provisions of law required for the implementation of the EU legislation.
530. For the implementation of the eFTI Regulation, it is possible to create a special national law that includes an authorising provision. This provision would empower the Government of the Republic to establish detailed requirements regarding data exchange. From a legislative drafting perspective, the authorising

²⁸⁰ Rules for Good Legislative Practice and Legislative Drafting. Regulation of the Government of the Republic 22.12.2011 No. 180 – RT I, 29.12.2011, 228.

²⁸¹ Normitehnika käsiraamat. Chancellery of the Riigikogu, Ministry of Justice, Government Office. p. 86, [Link](#).

²⁸² Normitehnika käsiraamat. Chancellery of the Riigikogu, Ministry of Justice, Government Office. p. 85, [Link](#).

²⁸³ Ibid., p. 78.

²⁸⁴ Ibid., p. 79.

provision must follow the regulation for which the authorising norm is granted.²⁸⁵ Therefore, a special law must also lay down in advance the obligation of an authority to receive information in accordance with the requirements of the eFTI and its implementing acts and delegated acts.

531. After the entry into force of such regulation, it is possible to refer to a more specific procedure established in other special acts based on a specific law. For the purposes of subsection 2 of § 28 of the Rules for Good Legislative Practice and Legislative Drafting, such reference is a direct reference, ie a reference to another provision of the Act. If the referenced provision does not match the original text verbatim, it can still be incorporated by stating that it will be applied alongside the specifications outlined in specific sections of the Act.
532. Pursuant to the above, it is not justified to introduce a separate Act for the national implementation of the eFTI. Instead, existing sectoral Acts should be amended, and an implementing act should be introduced at the regulatory level. For the national implementation of the eFTI Regulation, it is crucial to define the position of the central regulation in the national law within the scope of the eFTI (such as the Road Transport Act, Railways Act, Aviation Act, or Waste Act). This includes supplementing the relevant central regulatory legal act, establishing an authorising provision to set detailed requirements for data exchange, and updating other legal acts related to the eFTI with reference to the central regulation.

6.2. Central regulation in national law required for the implementation of the eFTI

533. The implementation of the eFTI is linked not only to special laws concerning specific modes of transport (Road Transport Act, Railways Act, Aviation Act) but also to waste management (Waste Act) and, more broadly, to administrative procedures (Administrative Procedure Act) and the exercise of national supervision (Law Enforcement Act). Both the Administrative Procedure Act and Law Enforcement Act contain regulations relating to the collection of documents and information in a broader sense (§ 38 of the Administrative Procedure Act, subsection 5 of § 30 of the Law Enforcement Act). However, it should be borne in mind that the Administrative Procedure Act and Law Enforcement Act are regulated by the general bases and principles for the conduct of administrative procedures and national supervisory procedures. Therefore, the specific regulatory framework relating to the eFTI does not fit into the fundamental framework of those Acts.
534. The only legal act within the direct scope of the eFTI, which also covers all modes of transport, is the Waste Act. At that, the current Waste Act also contains regulations regarding electronic waybills and lays down an authorising provision for the establishment of a database of hazardous waste movement documents (subsection 2³ of § 64 of the Waste Act). On the other hand, it must be borne in mind that the Waste Act's scope of regulation and application does not include freight transport but, more generally, waste management, waste requirements, the basis and scope of the national supervision of waste, and responsibility. Waste regulation differs fundamentally from the transport of goods; therefore, the Waste Act is not suitable as a central regulation unless more extensive amendments are made.
535. The Railways Act and Aviation Act do not have a separate regulation on freight transport information, as this is an area that is significantly regulated by international law. The Railways Act does not regulate the content of the waybill, as the content and templates of the waybill are established by international conventions, ie COTIF and SMGS. Pursuant to subsection 2 of § 111 of the Railways Act, rail transport of hazardous goods shall be carried out in adherence to the requirements of Appendix C (RID) to the COTIF or the requirements of the SMGS, depending on which is applicable in the given situation. In the Aviation Act, air transport is governed by § 53. Its subsection 1 stipulates that the Convention for the Unification of Certain Rules for International Carriage by Air (ie, the Montreal Convention) applies to domestic air transport. Pursuant to the explanatory memorandum, the Montreal Convention stipulates the requirements for carriage documents. Therefore, it is not necessary to duplicate them in a separate regulation.²⁸⁶
536. Of the existing national legal acts falling within the direct scope of the eFTI, the most comprehensive regulation relating to freight transport information is provided in the Road Transport Act. Carriage

²⁸⁵ Ibid., p. 62.

²⁸⁶ Act to Amend the Aviation Act and the State Fee Act 330 SE. Explanatory memorandum with annexes. [Link](#)

documents are thoroughly regulated in § 29 of the Road Transport Act. Subsection 5 of § 29 of the Road Transport Act allows the use of electronic carriage documents. The use of an electronic carriage documents is also allowed in subsection 11 of § 35 of the Road Transport Act, which regulates the carriage of dangerous goods by road. Conditionally, the regulation in force in the Road Transport Act is not only central to road transport, as § 33 of the Act also establishes requirements for combined transport, ie transport where road is used on the initial leg of the journey and, on the final leg, based on the same carriage document, rail or inland waterway or maritime services or vice versa. It should be considered also that, although matters related to freight transport information are the most thoroughly regulated in the Road Transport Act, it is the road transport sector where the digitalisation lag is greatest due to the specificities of the sector. The introduction of a central regulation in the Road Transport Act could thus significantly contribute to the introduction of electronic freight transport information for road transport and take into account sector-specific aspects in the best possible way. It should be borne in mind that currently, § 1 of the Road Transport Act defines its scope narrowly in the context of road transport, so it would be necessary to extend the scope to the organisation of the exchange of electronic freight transport information.

537. An overview of the aforementioned legal acts and their potential suitability as the central regulation is provided in the table below.

Table 16. National legal acts and their suitability as the central regulation

Legal act	Subject matter	Exposure to freight transport information	Competent authority	Direct relation to eFTI	Across modes of transport	Suitability for central regulation
Administrative Procedure Act	General law regulating administrative procedure	Establishes general rules for the collection of information of relevance to the administrative procedure, including, where appropriate, freight transport information.	N/A	NO	YES	NO
Law Enforcement Act	General principles, bases, and organisation of the protection of public order	The exercise of state supervision and specific measures of state supervision, including the right to request information relating to freight transport.	N/A	NO	YES	NO
Road Transport Act	It establishes the grounds for road transport, the duties of road haulage undertakings and senders of goods, including requirements for carriage documents and carriage of dangerous goods, combined transport and cabotage operations.	Establishes requirements for carriage documentation, including the use of an electronic carriage document	ETCB; PBGB	YES	NO	YES
Railways Act	Regulates railway safety, state supervision of railway traffic and requirements for rail transport	Relation through the COTIF, which includes, inter alia, the transport of dangerous goods and the related requirements for the documentation of freight transport.	CPTRA	YES	NO	YES

Legal act	Subject matter	Exposure to freight transport information	Competent authority	Direct relation to eFTI	Across modes of transport	Suitability for central regulation
Aviation Act	Provides the grounds for the organisation of flight operations, aviation security and the ensuring of aviation safety.	Relation through security measures and supervision of the obligations of the agreed representative, who must ensure the correctness of the freight transport information	ETCB, Environmental Board	YES	NO	YES
Waste Act	Regulates general waste management	Relation from the requirements for the preparation of a movement document for the transport of hazardous waste	Environmental Board, (ETCB)	YES	YES	YES

538. Given the circumstances, the Road Transport Act would be the most appropriate as a central regulation. It would be sensible to either establish a separate chapter²⁸⁷ dedicated to electronic freight transport information or to incorporate this subject into an existing chapter. For instance, Chapter 11, which governs the submission of data to the register and the right to access information, could serve as a suitable section for this regulation. The Railways Act, Aviation Act, and Waste Act can also be considered as central regulations, but this would require a more thorough amendment of these legal acts, given the regulation of the Act and the lack of regulation related to freight transport information in more detail. The choice of the position of the central regulation may, for example, be a political decision, taking into account the priority of certain modes of transport. When developing regulations related to the Road Transport Act, it is essential to consider other principles important to the Estonian e-state, as long as they do not conflict with the eFTI Regulation. One such principle is the one-request-only principle concerning data.
539. For the purposes of the eFTI Regulation, there is no need to amend the legal acts governing the processing and protection of personal data or, for example, the Public Information Act. The eFTI Regulation clearly states that the processing of personal data is to be subject to the GDPR and the eFTI Regulation does not provide for exceptions with regard to the GDPR. Since the eFTI Gate is not a database and the central regulation regarding the eFTI Gate aligns with the Road Transport Act, there is no need to amend Estonian national law governing databases.

6.3. Implementing acts necessary for the implementation of the eFTI in national law

540. The content of the national law implementing the EU Regulation must correspond to the scope of the authorising provision set out in the EU Regulation. The eFTI Regulation lays down the authorising provisions of the Member State under which, in order to implement the technical framework established by the eFTI Regulation:
- Member States shall take measures to enable all their competent authorities to access and process regulatory information made available by the economic operators concerned (including verification procedures) (Article 5(4) of the eFTI Regulation);
 - a conformity assessment body shall be established under national law and have legal personality. (point 1 of Annex II, of the eFTI Regulation).
541. To implement the eFTI Regulation, it is essential to establish national legal acts. These acts should outline the conformity assessment body and the competent authorities, ensuring they have access to the information provided by economic operators. Given that eFTI is primarily a technical solution that must be

²⁸⁷ Regulating this matter in a separate chapter is justified because the Road Transport Act addresses electronic movement documents in different sections. Specifically, it discusses them in general terms related to consignment notes and also in the context of transporting dangerous goods.

flexible to changes, it would be prudent to include an appropriate mandate provision in the central Act (Road Transport Act) and to lay down technical details in a Regulation.

542. Pursuant to subsection 1 of § 11 of the Rules for Good Legislative Practice and Legislative Drafting, an authorising provision grants the right or imposes an obligation to establish a regulation of the Government of the Republic in order to implement an Act or an Act and EU legislation. Pursuant to § 12 of the Rules for Good Legislative Practice and Legislative Drafting, an authorising provision must not contain authorisation for regulating a field that, in accordance with the Constitution of the Republic of Estonia, may be regulated only by an Act. For example, pursuant to § 12 of the Rules for Good Legislative Practice and Legislative Drafting, an authorising provision must not authorise to establish regulation in matters related to grounds for and conditions of restrictions of the fundamental rights and freedoms.
543. With the provision of an authorising provision in a special law authorising the Government of the Republic to establish detailed rules for the competent authorities to access electronic freight transport information exercises the right under the EU Regulation to take measures to establish access to the competent authorities. In other words, the Government of the Republic is authorised to establish a regulation for the implementation of the eFTI Regulation. This authorising provision does not regulate a field that, according to the Constitution, can only be regulated by an Act.
544. Pursuant to subsection 1 of § 52 of the Rules for Good Legislative Practice and Legislative Drafting, a draft regulation must be in compliance with the Constitution of the Republic of Estonia, other Acts, and EU law. Also, pursuant to § 53 of the Rules for Good Legislative Practice and Legislative Drafting, the content of a draft regulation must comply with the limits, spirit and purpose of an authorising provision provided for in a legal instrument of the EU. A draft regulation must not restrict or extend the provisions of a legal instrument of the EU.
545. As explained above, the eFTI Regulation requires the Member States to take measures to enable all competent authorities of the Member State to access and process the information made available by economic operators (Article 5(4) of the eFTI Regulation). These measures shall be in accordance with the delegated acts and implementing acts referred to in Articles 7 and 8 of the eFTI Regulation (Article 5(4) of the eFTI Regulation). From a legislative drafting perspective, the authorising provision must follow the regulation for which the authorising provision is granted, ie, Chapter 11 for the Road Transport Act.
546. In summary, a regulation from the Government of the Republic should neither limit nor expand upon the provisions outlined in the eFTI Regulation. Instead, it should establish the necessary measures to ensure access for the competent authorities of the Member State.

6.4. Amendments to existing legal acts

547. We previously proposed that central regulation for implementing the eFTI be established in the Road Transport Act, and a referencing provision in other relevant legal acts should transpose the regulation. In this respect, it is necessary to introduce the following amendments to the legal acts (Table 17).

Table 17. Amendments to existing legal acts

The Act	Amendment or supplementing	Content	Comment
Road Transport Act	Amendment	<p>§ 1. Scope of regulation</p> <p>(1) This Act establishes the grounds for road transport, training transport managers and drivers, the duties of road haulage undertakings and senders of goods, <u>requirements for electronic freight transport information and information exchange related to it</u>, requirements for cargo safety, requirements for road transport drivers, liability for infringement of the requirements, and the organisation of state supervision.</p>	<p>The current Road Transport Act narrowly concerns road transport. The inclusion of a central regulation on electronic freight transport information in the Road Transport Act should, therefore, also broaden its scope.</p>
	Supplementing	<p>§ 48² Requirements for electronic freight transport information</p> <p>Inter alia, a carriage document drawn up in electronic format shall be deemed to comply with the requirements of this Act, provided that it is made available through a certified environment (hereinafter the eFTI platform) in accordance with Regulation (EU) 2020/1056 of the European Parliament and of the Council of 15 July 2020 on electronic freight transport information and its implementing regulations and delegated regulations.</p>	<p>The documentation relating to freight transport is regulated by various provisions of the Road Transport Act. The general requirements of the carriage document derive from § 29, including the requirements specified in subsection 5 of § 29 regarding the use of electronic carriage documents. Document requirements related to combined transport are established in subsection 6 of § 33. Subsection 10 of § 35 of the Road Transport Act establishes the requirements for carriage documentation for dangerous goods. Given that the central regulation should create a general framework applicable in different aspects and across modes of transport, the corresponding regulation should be established in a separate chapter. One possibility is to introduce the relevant regulation in Chapter 11 of the Road Transport Act, 'submission of Data to Register and Right to Receive Information', which currently regulates the submission and making available of data in the register of economic activities and the regulation of the single contact point within the meaning of Article 18(3) of Regulation (EC) No 1071/2009 of the European Parliament and of the Council.</p> <p>According to the supplementing proposal, an electronic document complying with the requirements of the eFTI Regulation shall be deemed to have equal legal force to the carriage document provided in the Road Transport Act. The wording of the proposal does not exclude the admissibility of using the carriage document in another electronic format if this is permitted by national law (eg, electronic consignment note for timber material referred to in subsection 10 of § 37 of the Forest Act) or international law.</p>
	Supplementing	<p>§ 48³ Information system of electronic freight transport information and processing of data therein</p>	<p>The supplementing proposal establishes a general legal basis for the processing of data in the electronic freight transport information system when</p>

The Act	Amendment or supplementing	Content	Comment
		<p>(1) Access to the data made available on eFTI platforms shall be ensured to competent authorities and other authorities through the electronic freight transport information system (hereinafter the eFTI Gate). The eFTI Gate shall process information relating to freight transport in accordance with Regulation (EU) No 2020/1056 of the European Parliament and of the Council and its implementing regulations and delegated regulations.</p>	<p>it is made available to the competent authorities by the economic operators concerned in accordance with Article 4 of Regulation No 2020/1056.</p> <p>Pursuant to subsection 2 of § 18 of the Rules for Good Legislative Practice and Legislative Drafting, terms used in a draft Act related to EU law are used in accordance with the terms used in EU law and usually they are not defined in the draft. In the implementing act of the eFTI Regulation, the eFTI exchange environment between the eFTI platforms and competent authorities is defined as the eFTI Gate.</p>
	Supplementing	<p>(2) The joint controllers and competent authorities of the eFTI Gate within the meaning of point (3) of Article 3 of Regulation (EU) No 2020/1056 of the European Parliament and of the Council are the Estonian Transport Administration, Environmental Board, Tax and Customs Board, Police and Border Guard Board, and Consumer Protection and Technical Regulatory Authority.</p>	<p>The supplementing proposal is based on the definition of competent authorities in accordance with the legal act within the scope of the eFTI.</p>
	Supplementing	<p>(3) Legal acts may provide that, in addition to the competent authorities, freight transport information made available on eFTI platforms via the eFTI Gate is also accessible to other authorities to perform their tasks.</p>	<p>The supplementing proposal is based on the need to allow access to information made available through the eFTI platforms to other authorities, eg the Rescue Board, the Emergency Response Centre. It is not suitable to list these authorities in the Road Transport Act; instead, an amendment should be made to a special law, such as the Rescue Act. For example, providing access to eFTI data for the Emergency Response Centre would require changes in the regulation on the database of emergency notifications and help and information notifications referred to in § 9¹ of the Rescue Act. The composition of data should be supplemented, ie the data of the motor vehicle, rolling stock, aircraft, and goods transported by it related to the event should be added. A clarification should also be added, according to which the Emergency Response Centre has the right to retrieve the relevant data via the electronic freight transport information system referred to in § 48³ of the Road Transport Act. In this regard, the statutes of the database of emergency notifications and help and information notifications should also be amended. Pursuant to § 43⁵ of the Public Information Act, the persons submitting the data must be mentioned in the statutes of the database.</p>
	Supplementing	<p>(4) The detailed requirements relating to the exchange of data between the eFTI platforms and the eFTI Gate and the conditions for making available electronic</p>	<p>The supplementing proposal consists of granting an authorising provision to the Government of the Republic to establish regulations to regulate the details related to data exchange. A conformity assessment body for eFTI platforms</p>

The Act	Amendment or supplementing	Content	Comment
		<p>freight transport information by economic operators shall be established by the Government of the Republic through a regulation laying down, within the meaning of Regulation (EU) No 2020/1056 of the European Parliament and of the Council, the following:</p> <ol style="list-style-type: none"> 1) the conditions for the exchange of data between the eFTI platforms and the economic operators concerned; 2) the technical and functional requirements of the eFTI platforms; 3) conditions for data exchange between eFTI platforms and competent authorities (including conditions for access to and processing of information made available by economic operators) 4) conformity assessment body for eFTI platforms. 	<p>should also be defined. It is prudent to assign the relevant authority from the area of government of the ministry that will be in charge of managing and developing the eFTI Gate (eg KeMIT in the case of the Ministry of Climate).</p>
	Supplementing	<p>(5) the responsibility for the management and development of the eFTI Gate lies with [...].</p>	<p>The supplementing proposal is based on the fact that the eFTI Gate, as an information system, is linked to the activities of several bodies. To avoid overlapping competencies and dispersion of responsibilities, it is essential to legally designate the ministry responsible for managing, developing, and financing the eFTI Gate. In particular, a ministry whose managed authorities, ie, competent authorities within the meaning of the eFTI Regulation, are most involved in the implementation of the legal acts within the scope of the eFTI (eg the Ministry of Climate or the Ministry of Economy and Communications) would be suitable for this purpose.</p>
Railways Act	Supplementing	<p>§ 111¹ Requirements for electronic freight transport information</p> <p>(1) Within the meaning of Part 5 of Appendix C (RID) to the Convention concerning International Carriage by Rail (COTIF), inter alia, a carriage document drawn up in electronic format shall be deemed to have equal legal force, provided that it is made available through the electronic freight transport information system specified in § 48³ of the Road Transport Act in accordance with Regulation (EU) 2020/1056 of the European Parliament and of the Council on electronic</p>	<p>With the supplementing proposal, an electronic document complying with the requirements of the eFTI Regulation shall be deemed to have equal legal force to the carriage document for dangerous goods within the meaning of Part 5 of Appendix C (RID) to the COTIF. The wording of the proposal does not exclude the admissibility of using the carriage document in another electronic format, but it requires the competent authorities to accept electronic freight transport information complying with the requirements of the eFTI Regulation.</p> <p>The position of the section to be added to the Railways Act is based on the fact that the requirements relating to freight transport information in the Railways Act arise most generally from international obligations for the transport of dangerous goods, which are regulated in § 111 of the Railways Act. The wording of the proposal does not exclude the admissibility of the use of the</p>

The Act	Amendment or supplementing	Content	Comment
		freight transport information and its implementing regulations and delegated regulations.	carriage document in another electronic format, if this is permitted by national law or by international law.
	Supplementing	<p>§ 143. State supervision</p> <p>(4) The Consumer Protection and Technical Regulatory Authority is competent to:</p> <p>6) exercise supervision of compliance with the requirements for the carriage of dangerous goods by rail specified in § 111 of this Act.</p>	The supplementing proposal arises from the fact that the competence of the CPTRA as a supervisor in the transport of hazardous waste is unclear in the current law. Generally, the CPTRA oversees the implementation of the safety management system, which includes aspects related to dangerous goods but excludes operational controls.
Aviation Act	Supplementing	<p>§ 46¹³ Persons responsible for security measures for goods, mail, and in-flight supplies and their recognition</p> <p>(1¹) An electronic document specified in the Annex to Regulation No 2015/1998, either in the form of an air waybill or a separate declaration, may be made available electronically by means of the electronic freight transport information system specified in § 48³ of the Road Transport Act in accordance with the conditions laid down in Regulation (EU) No 2020/1056 of the European Parliament and of the Council on electronic freight transport information and its implementing regulations and delegated regulations.</p>	<p>With the supplementing proposal, a document in electronic format made available via the eFTI Gate shall have equal legal force to a written air waybill or declaration. The wording of the proposal does not preclude the admissibility of the use of an air waybill or declaration in another electronic format, if so permitted by national or international law.</p> <p>The position of the provision stems from the fact that the Aviation Act does not have a separate regulation relating to freight transport information. The requirements for freight transport information are most generally related to aviation security, which is regulated in § 46¹ et seq. § 46¹³ is currently a vacant section, which regulated security checks of diplomatic mail until 1.3.2015.</p>
Waste Act	Supplementing	<p>§ 108 Transboundary movement of waste:</p> <p>(3) The documents referred to in point (c) of Article 16 and Article 18(1) of Regulation (EC) No 1013/2006 of the European Parliament and of the Council may, inter alia, be made available electronically by means of the electronic freight transport information system referred to in § 48³ of the Road Transport Act in accordance with the conditions laid down in Regulation (EU) No</p>	With the supplementing proposal, a document in electronic format made available via the eFTI Gate shall have equal legal force. The wording of the proposal does not exclude the admissibility of the use of the documents in another electronic format if this is permitted by national law or by international law.

The Act	Amendment or supplementing	Content	Comment
		2020/1056 of the European Parliament and of the Council on freight transport information and its implementing regulations and delegated regulations.	
KORs	Amendment	<p>§ 30 Questioning and requiring of documents (4) Questioning and requiring the presentation of documents for the prevention of a threat is not permitted in the case of information and documents which can be obtained from a database established on the basis of the law or <u>via an information system</u>, except in the case the information cannot be obtained from the database or <u>via an information system</u> for reasons irrespective of the law enforcement agency. The restriction referred to in this paragraph shall also apply to information which a law enforcement authority may obtain free of charge from the relevant database of another Member State of the European Union or for a fee, provided that the person certifies in a format that can be reproduced in writing that they will bear the costs of obtaining that information.</p>	The amendment proposal clarifies that a law enforcement authority is not allowed to request documents if the documents or information are available from the information system in addition to the databases. The amendment stems from the fact that the eFTI Gate is an information system and not a database within the meaning of the Public Information Act.

6.5. Subject matter of the implementing act required for the implementation of the eFTI

548. Although the eFTI Regulation is directly applicable, as discussed in Chapter 6.4 of this analysis, Member States must take measures to ensure that all competent authorities can access and process information provided by economic operators through the eFTI Gate (as specified in Article 5(4) of the eFTI Regulation). Additionally, they must facilitate the transmission of information back to the economic operators via the eFTI Gate. In Estonian law, it would be prudent to introduce the regulation required to support the implementation of the eFTI Regulation in the Road Transport Act. In accordance with Estonian legislation, technical issues are regulated based on the authority granted by law, either through a regulation of the Government of the Republic or the Minister. Thus, from a legislative drafting perspective, the authorising provision must follow the regulation for which the authorising provision is granted, ie, Chapter 11 of the Road Transport Act.
549. As the implementing acts of the eFTI Regulation have not been adopted by the time the final report was completed, it is not possible to clearly assess which aspects the Member States should regulate and how. Any interpretations of the authorising provisions or unregulated elements outlined in the eFTI Regulation and its implementing acts must support the implementation of the eFTI Regulation in national law and should not conflict with the eFTI Regulation or its implementing acts.
550. The above principle also applies to implementing acts issued based on national law. Regulations of the Government of the Republic and the Minister may not limit or extend the provisions of the eFTI Regulation. National regulations should only include the necessary measures to allow the competent authorities of a Member State to access and exchange information and documentation regarding matters not covered by the eFTI Regulation. Additionally, these measures must not conflict with the eFTI Regulation or its implementing acts.

7. Implementation timeline

551. The pace of national legislation directly depends on the European Commission's schedule. After the adoption of European Union legislation, Member States must ensure that, by the end of the transitional period, they are prepared to transpose the relevant EU legislation or apply the directly applicable regulations without any obstacles. The regulation is a regulatory act that is binding in its entirety and directly applicable and must be fully complied with by all to whom it applies. The Regulation will be directly applicable in all Member States from its entry into force. The eFTI Regulation shall apply from 21 August 2024.
552. Regardless of the Regulation's direct applicability, national legislators must evaluate whether the domestic legal environment and technical readiness are sufficient to implement the Regulation effectively. Also, there must be no contradictions between the various existing legal acts.
553. The draft to amend an Act begins with the so-called preliminary work phase, during which the needs are mapped and the normative text and explanatory memorandum of the initial draft are prepared. Competent authorities, stakeholders, and other relevant parties should be involved at this stage. Impact assessments shall be carried out if necessary. Before sending a draft Act to the Riigikogu, the corresponding draft Act, explanatory memorandum, and implementing acts (if any and if they are ready) must pass the approvals. Subsection 1 of § 7 of the rules of the Government of the Republic provides that a sufficient time limit is provided for the approval of a draft Act or other issue, which is necessary for a substantive examination of the matter. Draft Acts or other issues are usually approved or rejected with good reason within fifteen working days, in the Ministry of Justice usually within twenty working days. In substantiated cases, the time limit may be extended at the request of the applicant for the grant of accord or the coordinator. Subsection 4¹ of § 6 of the rules of the Government of the Republic provides that the Ministry of Justice, when approving a draft Act and a draft resolution of the Riigikogu, also checks the conformity of the draft with the requirements of the good rules of legislative drafting. Subsection 5 of § 6 of the rules of the Government of the Republic provides that the draft Act and a draft resolution of the Riigikogu shall be submitted to the Ministry of Justice for approval after its approval in accordance with the procedure referred to in subsections 1 and 4¹ thereof, review of the opinions received during the approval and, if necessary, amending the draft to ensure its conformity with the requirements of the good rules of legislative drafting before submitting the draft to the Government of the Republic.
554. During the second stage, the draft is initiated in the Riigikogu. In the Riigikogu, the draft passes through three readings, during which the draft may be amended and supplemented. An Act adopted in the Riigikogu is sent to the President of the Republic for promulgation and then published in the Riigi Teataja. As a general rule, an Act published in the Riigi Teataja enters into force on the tenth day after its publication, unless another time of entry into force is indicated in the Act.
555. The development of the IT solution and the preliminary stage of public procurement need to be planned separately. Preparing a public procurement is a time-consuming process. The deadlines arising from the Public Procurement Act must be observed in executing the procurement, as well as delays resulting from possible disputes. A public procurement can be prepared with an overview of all requirements, meaning that all relevant implementing acts of the eFTI Regulation are necessary for the procurement's preparation. IT development involves ongoing activities such as maintenance, minor developments, and improvements to cybersecurity. It is important to recognise that technical solutions typically have a lifespan of about seven years, after which a new solution may be necessary. The eFTI4EU project aims to establish technical requirements and develop a prototype for the eFTI project, which will simplify the process of creating technical requirements for procurement by the Member States.
556. Phase 3 outlined in Table (Table 18) below will begin in 2027. The timetable is subject to change, and at the time this analysis was prepared, there was not enough information regarding follow-up and implementation. As a result, the schedule for phase 3 of the final report (Table 18) is not specified at either the quarterly or monthly level; only the activities are listed. For the above reasons, the schedule of the procurement related to IT development is also not specified.

Table 18. Implementation timeline

Phases of legislation		2024			2025			2026				
		Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Development of a legal act												
Part I	1. Policy-making	■	■	■								
	2. Mapping and assessment of potential impacts			■	■							
	3. Assessment of technical readiness (readiness of databases)			■	■	■						
	4. Preparation of the normative text and explanatory memorandum of the draft Act and implementing acts			■	■	■	■	■				
	5. Approvals						■	■		■		
Phase 2 of legislation												
	1. Initiation of the draft Act in the Riigikogu (three readings)										■	■
	2. The adopted Act is sent to the President of the Republic for promulgation										■	■
	3. Publication of the Act in the Riigi Teataja										■	■
	4. Entry into force of the Act (as a rule, it enters into force on the tenth day after publication)										■	■
Implementation												
Phase 3	1. Preparation of competent authorities and other persons to comply with the Act being enforced											
	2. Identification of needs for change and introduction of necessary changes in implementing acts.											
	3. Monitoring of the Act and implementing acts and the field to assess the relevance of the Act and its implementing acts and the need to make necessary amendments											
	4. A report shall be submitted to the Commission on information referred to in Article 17 of the eFTI Regulation no later than on 21 August 2027 and every five years thereafter											
	5. No later than 21 February 2029, the Commission shall carry out an evaluation of this Regulation and present a report on the main findings to the European Parliament, to the Council and to the European Economic and Social Committee (Article 16(1) of the eFTI Regulation).											

Phases of legislation		2024			2025			2026				
		Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
IT Development												
Phase 4	1. Preparation of the procurement											
	2. Conducting the procurement											
	3. Development work											
	4. Implementation											
	5. Follow-up activities and phases (eg maintenance, further developments, etc)											

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2. Ruling of Criminal Chamber 1-18-9343/20.
3. Criminal Chamber of the Supreme Court judgement 3-1-1-124-04.
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6. Criminal Chamber of the Supreme Court judgement 3-1-1-67-09.
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17. Estonian Supreme Court Administrative Law Chamber judgment 14.12.2011, 3-3-1-72-11.
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20. Estonian Supreme Court Administrative Law Chamber judgment 3-3-1-41-00.
21. Estonian Supreme Court Administrative Law Chamber judgment 3-2-1-143-08.
22. Estonian Supreme Court Administrative Law Chamber judgment 3-2-1-56-06.
23. Supreme Court en banc judgement 5-19-29.

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1. EIKo 62617/00, *Copland v. United Kingdom*
2. EIKo C-203/15, *Tele2 Sverige AB v. Post- och telestyrelsen*.
3. EIKo 13710/88, *Niemietz v. Germany*.
4. EIKo 37971/97, *Société Colas Est et al. v. France*.
5. EIKo 28341/95, *Rotaru v. Romania*.
6. EIKo C-450/06, *Varek Sa v. Belgium*.
7. EIKo C-203/15, Advocate General H. S. Øe proposal.

Summary

Regulation (EU) 2020/1056 on electronic freight transport information, adopted by the European Parliament and the Council in July 2020, establishes a framework for the safe, secure and fully interoperable exchange of information between businesses and authorities on the movement of goods in the EU.

The adoption of the eFTI Regulation has been motivated by the desire to promote the digitalisation of freight transport and logistics. The movement of goods, including waste, involves a great deal of information that is still transmitted in paper format between companies and between companies and competent authorities.

The use of paper documents is a major administrative burden for logistics operators and leads to additional costs for logistics operators and related industries (such as trade and manufacturing), in particular SMEs, and has a negative impact on the environment. The main reason for the lack of progress towards the simplification and increased efficiency of the exchange of information that would be made possible by existing electronic means is the absence of a common legal framework at Union level requiring competent authorities to accept the relevant legally required freight transport information in electronic form.

The eFTI Regulation, which is applied to the legal requirements arising from the different legislative instruments of the transport sector, will create a new technical solution for making freight transport information available within the EU for road, rail, air and inland waterway freight transport. The eFTI Regulation does not replace the existing content requirements for the documentation of the carriage of goods but aims to ensure that the requirements for the movement of goods information can be fulfilled in an electronic format, in a uniform format across the EU and in a manner acceptable to the competent authorities.

It should be kept in mind that the eFTI Regulation does not seek to apply uniform procedures and principles to all possible freight data. eFTI is limited to the detailed information described in the eFTI Regulation, for which the exact data sets will be described in a delegated Regulation. Thus, the eFTI Regulation regulates the exchange of specifically delimited data between the Member State and the economic operator.

The aim of this analysis is to develop a comprehensive legal methodological approach for the implementation of the eFTI Regulation in Estonia. To achieve this, this analysis consisted of these five parts:

- mapping the legislation and the competent and relevant authorities that are directly or potentially involved in the implementation of eFTI;
- document review that analysed a wide range of previous studies and relevant to the context of this work, which provided a baseline overview of the current state of play and the preparations so far for the transition;
- individual and group interviews that were carried out between January and April 2024 with representatives of the institutions, organisations and businesses involved in the analysis to gain a better insight into the current situation from both a practical and a legal point;
- electronic questionnaires that were sent to target groups: transport and logistics operators, relevant professional associations, competent authorities (public sector) and eFTI IT platform developers;
- discussion seminars that were held during the period of the analysis, which focused on: delivery of goods and confirmation of receipt; identification of users involved in the transport of goods; compatibility of platforms and single submission of data; and data protection, trade secrecy and cyber security;
- process drawings which are part of the documentation handed over to the contracting authority during the analysis, but due to their technical nature are not an addition to the final report.

International trade and freight transport information is to a large extent regulated by international law, which is why national law is largely scarce on freight transport information. In the case of rail transport, the requirements of the Convention concerning International Carriage by Rail (COTIF) or the Agreement on International Goods Transport by Rail (SMGS) apply. For air transport, the Convention for the Unification of Certain Rules for International Carriage by Air (Montreal Convention) and the Convention on International Civil Aviation (Chicago Convention) are of central importance. In addition to these, the agreements developed by the International Air Transport Association (IATA), which are not conventions in nature but

are nevertheless widely followed and implemented internationally, are also important in practice. The situation is somewhat different in road transport, where there is a high proportion of national transport and also a number of specific types of cargo, which has led the legislator to impose specific requirements for freight transport documentation, but where the UN Convention on the Contract for the International Carriage of Goods by Road (CMR), which provides a common basic framework for transport documentation, is also of central importance. The electronic documentation produced under these conventions is not covered by the eFTI Regulation, but this freight information can be used to create and manage eFTI data sets and eFTI data exchange seamlessly.

Although the scope of the eFTI Regulation may be extended to other freight transport information in the future, it is currently limited, along with the related obligations of Member States, to the EU level legislation listed in the eFTI Regulation and the legislation adopted to implement it at national level. These areas are:

- combined transport and cabotage, the requirements of which are regulated in Estonia in the national Road Transport Act;
- transnational shipments of waste, the requirements of which are regulated in Estonia by the Waste Act;
- the transport of dangerous goods, the requirements for which are regulated nationally in the Railways Act and the Road Transport Act;
- civil aviation security, the requirements of which are regulated at national level in the Aviation Act.

The scope of application referred to above also delimits the competent supervisory authorities that must have access to the relevant data under the eFTI Regulation. Competent authorities which are obliged to receive the relevant information electronically and which must have access to the relevant information are authorities which need the information to carry out the public tasks assigned to them, e.g. to verify and validate information.

For the purposes of the legislation within the scope of the eFTI Regulation, the competent authorities in Estonia are:

- Environmental Board
- Transport Administration
- Tax and Customs Board
- Consumer Protection and Technical Regulatory Authority
- Police and Border Guard Board.

For example, under the Waste Act, the Environmental Board and the Tax and Customs Board are the national supervisors of transboundary shipments of waste and hazardous waste, and therefore have the competence to check whether a shipment of waste is accompanied by the required movement documentation. In cases where an economic operator has made the documentation available electronically in accordance with the requirements of the eFTI Regulation, the Environmental Board and the Tax and Customs Board must have access to this information and are obliged to receive this information electronically.

Entrepreneurs will make the freight information available electronically in the form of eFTI datasets through dedicated platforms for its processing (eFTI platform), provided by eFTI service providers. Both the eFTI platforms and the service providers will have to comply with common certification and conformity assessment requirements, which will be laid down in a Delegated Regulation of the eFTI Regulation.

Data exchange between eFTI platforms and competent authorities will be carried out through the national access point for electronic freight transport information (eFTI gate), which is a query brokering environment. Each EU Member State has at least one eFTI gate (or access to one gate) and these gates are interconnected in a network of eFTI gates. eFTI gates do not store freight data, except data related to data processing, such as working logs for monitoring or statistical purposes. In the most general sense, an eFTI gate is an information system without being a data warehouse.

Data exchange between eFTI platforms and the eFTI gate of the same Member State is generally based on the eDelivery standard, but other solutions for data exchange within Member States are also possible, e.g. in Estonia the X-tee for national data exchange could be introduced to allow more efficient interfacing with other public services. It should be noted, however, that the Estonian eFTI gate and the eFTI gate of another Member State can only be connected via eDelivery. The data exchange between the eFTI gate and the competent authorities is done via X-tee. The eFTI Regulation does not regulate in detail how the

data exchange between the eFTI platform and the relevant companies using or transmitting data to it should be organised or what the user interface should be. Nor does the eFTI Regulation provide for other services or connections of the eFTI platform, nor does it limit or impose interfaces between different eFTI platforms, interfaces to access points or national registers, other services. Enforcement of common standards will allow platform developers to introduce new services that may be of interest to both businesses and competent authorities.

In addition to access to freight transport information, which the eFTI Regulation has made mandatory for competent authorities to receive, the eFTI gate can also be used to provide access to other relevant freight-related information from a national perspective, which can contribute to the performance of essential public tasks and services such as planning rescue operations, collecting national statistics, combating tax fraud and smuggling, enforcing international sanctions and ensuring national security.

The future solution will provide electronic cargo information in a standardised format, allowing for the processing of cargo information operations and procedures to be carried out much faster and with fewer resources for both the economic operator and the competent authority. Today, there is no uniform electronic access to this data. Access to the data would make it possible to collect information more quickly and in greater quantity, to make more accurate assessments of situations and thus to perform public tasks to a higher standard.

Access to freight transport data by the competent authorities is inextricably linked to the principle of investigation, according to which the administrative authority has the right to require the party to the administrative procedure and other persons to provide the evidence and data at their disposal. Other persons within the meaning of the Administrative Procedure Act may also include the operator of the eFTI platform. The information and evidence that an administrative body may request during administrative proceedings may also be in electronic form.

On the other hand, in addition to the potential benefits of having access to large volumes of freight transport data, the potential risks and their mitigation needs to be considered when designing a future solution. Immediate access to data within the meaning of the eFTI Regulation does not imply unlimited access. Officials of competent authorities will have access to the information required by law and the right to process the data only after their identity has been duly verified, i.e. through authentication, and after the authorisation to access and process the data has been established. The corresponding processing of data by an official of the competent authority shall be recorded in logs. An official of the competent authority shall not have access to data or sets of data which are not necessary for the conduct of the administrative procedure.

The eFTI Regulation does not derogate from the rules on the protection of personal data. If personal data are processed in the eFTI information systems, there must be at least one legal basis for doing so, which is laid down in Article 6 of the General Data Protection Regulation (GDPR). In the context of eFTI, the following examples of data processing can be given:

- If the competent authority needs to use the data for verification in the public interest, the processing is necessary for the performance of a task carried out in the public interest pursuant to Article 6(1)(e) of the GDPR;
- if a company uses data to fill out a document under a legal act, then this can be considered as a processing, which is necessary for compliance with a legal obligation pursuant to Article 6(1)(c);
- if the carrier of the goods is obliged to provide the data to the consignee based on contractual obligations, this is a processing of data necessary for the performance of a specific contract based on Art. 6(1)(b).

As the eFTI Regulation does not replace the existing requirements, but aims at making it possible to fulfil the requirements related to the movement of goods information in an electronic format, in a uniform manner across the EU and in a way that is acceptable to the competent authorities, there is no need to change the content requirements related to the movement of goods information in the national implementation of eFTI. However, it is necessary to complement the national regulation concerning:

- the data exchange between economic operators and eFTI platforms;
- technical and functional requirements of eFTI platforms;
- the requirements for data exchange between eFTI platforms and competent authorities;
- the definition of competent authorities in national law;

- the location of the eFTI gate in the national information system and the detailed requirements for the related data exchange.

In other words, it is necessary to define in Estonian national legislation the detailed conditions for the exchange of data between economic operators and the eFTI platforms as well as the eFTI gate, regarding the part not covered by the eFTI Regulation and/or its implementing regulations and delegated regulations. The need for further national regulation may arise in relation to the cross-use of data and the application of the 'once-only' principle to information that is not directly within the scope of eFTI. If in Estonia it is desired to grant access to such information to another public authority when it is necessary for the performance of a public task, e.g. for security or statistical purposes, this would also require additional regulation in national law. It may be appropriate for national law to provide for direct access to freight transport information made available through the eFTI gate for the Rescue Board and the Emergency Response Centre for the purpose of more efficient organisation of rescue operations.

At national level, it may also be necessary to regulate more precisely the legal validity of an electronic delivery note, i.e. its equivalence to a paper document and its conditions. The electronic delivery note is available for road, air and rail transport, as well as for maritime and inland waterway transport of goods. The international conventions do not regulate precisely the technical procedure required for the authentication of declarations of intent, i.e. how authentication and the confirmation of transactions should take place. The eCMR on road transport provides a description of the conditions for the authentication of the electronic consignment document, but also allows the use of a solution that is allowed in the country that compiled the delivery document. CIM for rail transport allows the use of a solution where the procedures used for the electronic storage and processing of data are functionally equivalent. In the case of air transport, the Montreal Convention allows transport data to be stored on another medium instead of the air consignment note but does not impose specific procedural requirements. Similarly, the Chicago Convention allows the use of an electronic consignment note. However, in the case of air transport, it should be borne in mind that the main requirements derive from IATA Resolution 972 and the data exchange standard endorsed by IATA Resolution 670. Regarding IATA, it should be noted that the parties to the IATA agreements are air carriers which have voluntarily submitted themselves to the agreements developed by IATA. The IATA rules are therefore not directly applicable to countries.

For the national implementation of the eFTI Regulation, it makes sense to create a central regulation in the Road Transport Act, which currently has the most comprehensive regulation of freight transport information among the eFTI scope legislation. From a practical point of view, the current regulation in the Road Transport Act is not only central to road transport, as § 33 of the Road Transport Act also lays down requirements for combined transport, i.e. transport where the initial stage of the journey is by road and the final stage is by rail, inland waterway or sea, or vice versa, on the basis of the same delivery note. In addition, it should be noted that, although the Road Transport Act is the most comprehensively regulated in freight transport information, it is road transport where the digitalisation gap is the greatest due to the specificities of the sector. The introduction of a central regulation in the Road Transport Act could thus significantly contribute to the implementation of electronic freight transport information in road transport and take into account the specific aspects of the sector in the best possible way. In the event of a central regulation in the Road Transport Act, the regulation should be transposed to other relevant legislation (i.e. Waste Act, Railways Act, Aviation Act) by means of a reference norm. Considering that eFTI is primarily a technical solution that needs to be flexible to changes, it would be reasonable to include an appropriate enabling provision in the central law (Road Transport Act) and to lay down the technical details in a regulation.

Regarding the national implementation of the eFTI Regulation, it should be noted that the eFTI Regulation requires competent authorities to be ready to accept electronic cargo information made available in accordance with the requirements of the eFTI Regulation 30 months after the date of entry into force of the first delegated or implementing act. The Regulations will enter into force on the dates specified therein or on the twentieth day following publication. Given the current state of play of the procedure for the adoption of delegated and implementing acts, it can be expected that the corresponding obligation for competent authorities to accept electronic cargo information will not apply before 2027.

The timetable for implementation must consider the time that will be needed for:

- development and coordination of the draft legislation;
- the processing of the draft in the parliament;

- drafting the necessary implementing legislation;
- development of the eFTI gate as an information system.

The development of the draft legislation should, as a matter of priority, address the issues that are indispensable for the national implementation of the eFTI Regulation. While other aspects could be considered in a regulatory way for the national implementation of the eFTI Regulation, e.g. additional possibilities for cross-use of data from a real economy perspective and access to information by other authorities, this would require a separate, more in-depth analysis and impact assessments, which could lead to delays in the drafting process and thus to delays in the national implementation of the eFTI Regulation as a whole.

