National Investigation Body (NIB) Network

Annual Report for 2023
and
Common Peer Review Programme

DOCUMENT CHANGE RECORD

The following table records the complete history of this document.

Version:	Date:	Reason for change:	Parts of document affected:
0.1	25/01/2024	First version, for comments TF1.	2 and 5.1.
0.2	07/02/2024	Comments from TF1.	5.3.
1.0	29/04/2024	Comments from NIB Network	Editorial.

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1 BACKGROUND

This Annual Report and Common Review Programme is published by the National Investigation Bodies (NIB) to meet the requirements of Article 22.7 of the European Directive on Rail Safety dated 11 May 2016 (EU 2016/798). The Article states:

> *The investigating bodies, with the support of the Agency in accordance with Article 38(2) of Regulation (EU) 2016/796, shall establish a programme of peer reviews where all investigating bodies are encouraged to participate so as to monitor their effectiveness and independence.*
>
> *The investigating bodies, with the support of the secretariat referred to in Article 38(2) of Regulation (EU) 2016/796, shall publish:*
>
> *(a) the common peer-review programme and the review criteria; and*
>
> *(b) an annual report on the programme, highlighting identified strengths and suggestions for improvements.*
>
> *The peer review reports shall be provided to all investigating bodies and to the Agency. Those reports shall be published on a voluntary basis.*

The peer review seeks to monitor the effectiveness and independence of a NIB by considering its organization, processes and outputs (eg accident reports, safety recommendations, annual reports). The peer review process also seeks to assist development of all NIBs by sharing with them strengths and suggestions for improvements identified during reviews.

The NIBs have appointed a Peer Review Task Force to manage and undertake the reviews. This Task Force comprises representatives from a range of NIBs. The peer review of each state is undertaken by a Panel selected by the Task Force. The output of each review is based on information provided by the NIB being reviewed. This information is provided in a questionnaire and during a visit to the reviewed NIB by the Panel. Details of the questionnaire and the review criteria are given in the NIB Peer Review Handbook for the year in which the review was carried out. This can be found at the NIB Network webpage https://www.era.europa.eu/agency/stakeholder-relations/national-investigation-bodies/nib-network-european-network-rail-accidents-national-investigation-bodies_en.

The peer review relies on answers given by the NIB in the questionnaire and during the site visit. The peer review process is not intended to fully investigate all issues covered by the questionnaire and does not address all issues in the documents used as review criteria. It is targeted at issues where the reviewers believe there will be greatest value to the NIB being reviewed and to other NIBs. Peer review is a cooperative process involving trust between the parties. Peer reviewers will seek justifications for statements made but, unlike an auditor, will not seek evidence to check the truth of statements.

The relevant Peer Review Panel has prepared a peer review report for each reviewed NIB. The Directive states that these are published on a voluntary basis and this is done by the reviewed NIB if it wishes to do so. Other NIBs and the Agency are not permitted to provide copies of the reports relating to individual NIBs. Any requests for a copy of a peer review report should therefore be addressed to the NIB which was reviewed.

This 2023 peer review annual report covers peer reviews undertaken in 2023 and is the fifth to be submitted to the Agency by the NIB Network.

2 NIB AND STATE DETAILS

NIBs reviewed				
State	**NIB Name**	**NIB Type**	**Date of visit by Peer Review Panel**	**Number of rail mode investigators (full time equivalent)**
Belgium	Organisme d'Enquête accidents incidents ferroviaires - Rail Accident and Incident Investigation Unit	Single modal	14 – 15 June 2023	3
Finland	Onnettomuustutkintakeskus – Safety Investigation Authority	Multimodal	14 - 15 November 2023	2
Portugal	Gabinete de Prevenção e Investição de Acidentes com Aeronaves e de Acidentes Ferroviários - Office for the Prevention and Investigation of Accidents in Civil Aviation and Rail	Multimodal	28 - 29 November 2023	1

The Task Force would like to thank all the reviewed NIBs for their openness, for their courtesy and for the valuable feedback they have provided to help improve the peer review process.

Statistics for railways in reviewed states			
State	**Route length (line kilometres)**	**Passenger train-kilometres/year**	**Freight train-kilometres/year**
Belgium	3 613	86,1 million	12,3 million
Finland	5 918 (in use 5 645)	45,7 million	8 965 million
Portugal	2 750	28,5 million	5, 5 million
NOTE: Data rounded and refers to the year before the peer review was undertaken.			

Types of investigation undertaken by reviewed NIBs									
State	**Heavy rail**			**Metro railways***		**Trams***		**Other (trolley bus, cable car, etc)***	
	Investigations required by Directive 2016/798 Article 20(1))	National law requirement outside Article 20(1)*	Discretion to investigate other events*	National law requirement	Discretion to investigate other events	National law requirement	Discretion to investigate other events	National law requirement	Discretion to investigate other events
Belgium	Yes	Yes	Yes	No	Yes	No	No	No	No
Finland	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Portugal	Yes	No	No	yes	Yes	Yes	Yes	No	No

* Directive 2016/798 permits, but does not require, a NIB to investigate these accidents and events.

3 PARTICPATING ORGANISATIONS

The following NIBs contributed investigators to the Peer Review Panel members during the period covered by this report. All these investigators were a panel member in at least one State peer review or one planned review.

- Germany
- France
- Sweden
- Romania
- Belgium
- Ireland
- United Kingdom

People from the following organisations attended a peer review as an observer. Observers are required to treat information obtained during peer reviews as confidential and must not share this information with their employers.

- The Agency
- NIB Ireland
- NIB Germany
- NIB Croatia
- NIB France
- NIB Netherlands

4 INTRODUCTION TO PEER REVIEW FINDINGS

4.1 This report gives an overview of findings from the individual state peer reviews in the year 2023 covered by this report. It concentrates on issues most likely to influence the effectiveness and independence of NIBs and does not cover every finding of the individual state reviews.

4.2 Directive 2016/798 requires that the peer review process considers effectiveness and independence, and that the annual report identifies strengths and suggestions for improvements. The table below links comments on effectiveness and independence with related strengths and suggestions for improvements.

4.3 The strengths and suggestions for improvements identified during the peer review process do not apply to all reviewed states.

5 PEER REVIEW FINDINGS

5.1 Effectiveness of investigation activities and developing recommendations		
Topic/comment	***Strengths associated with comment***	***Suggestions for improvement associated with comment***
All NIBs considered in this report appear to be generally carrying out investigations and making recommendations effectively.	-	-
All NIBs are using manuals/handbooks that provides a very good support for all investigators and contains guidelines on how to carry out investigations.	Structured approaches to investigating accidents and appropriate documentation compatible with ISO9000 quality system.	
All NIBs receive notifications timely.	Receiving notifications timely makes rapid attendance at accident sites by deploying investigators from office when needed.	

5.1 Effectiveness of investigation activities and developing recommendations		
Topic/comment	***Strengths associated with comment***	***Suggestions for improvement associated with comment***
Two of the NIBs have vacancies in the staffing and one of the two NIBs has a serious problem with the recruitment and retention of staff due to not being competitive within the rail sector. Also, the contractual terms at the NIB are not adequate because staff is not permanent and is in the NIB in a 3-year term basis. 2 of 3 positions as investigators are vacant. One of the NIBs was carrying out some level of investigation and closure into investigations opened in the earlier era (pre 2014). The fact that it has these outstanding 'historic' investigations has added to its workload and partially accounts for its more recent outstanding investigations. The average length of the investigations and the large backlog of pending investigations for a period much larger than one year is very negative to the NIB, internally and externally, and affects the dissemination of safety information for accident prevention.		Ensuring that the NIB has sufficient resources and that these resources are directed at events where valuable safety learning is likely to be found can include: a. reducing the number of relatively minor events (ie events outside requirements of the Directive) which a NIB is required to investigate; b. increasing resources to ensure effective management of a major accident.
All NIBs publish the investigation reports on their websites.	Publishing the investigation reports increases the safety learning for the industry.	
One NIB generally follows the requirements of the 2020/572 regulation except the analysis section that does not contain all the subtitles in letters from the regulation.		The reporting structure used by NIB should be assessed in order to follow the report structure set out by the annex to the 2020/572 regulation more closely.

5.1 Effectiveness of investigation activities and developing recommendations		
Topic/comment	***Strengths associated with comment***	***Suggestions for improvement associated with comment***
One NIB has no active communication with victims and their relatives throughout the investigation process.		The NIB should consider to have a more active communications since victims and their relatives can provide relevant technical information in order to improve the quality of the investigation report.
Two of the NIBs are multimodal which increases the possibility of using investigators from the different transport modes to set up the investigation teams, especially for on-site visits.	Using investigators from other transport modes makes the organisation more flexible.	
Two NIBs takes active participation in the NIB Network, for example Task Forces.	Taking active participation in the NIB Network increases the safety learning with other NIBs.	
One NIB has a Head of communications that manages public affairs (media, press etc.) and next of a kin communication.	Good cooperation with the media and good communication with the involved parties, including the families and victims.	

5.2 Effectiveness of recommendation implementation		
Topic/comment	***Strengths associated with comment***	***Suggestions for improvement associated with comment***
All NIBs include the safety recommendations in the draft report which is sent to all involved parties as part of the consultation process.	This enhances the likely acceptance of the safety recommendations.	
All NIBs report that the recommendations are accepted.	Having the recommendations accepted by the addressees increases the safety learning for the industry.	

5.3 Independence		
Topic/comment	***Strengths associated with comment***	***Suggestions for improvement associated with comment***
All NIBs seem to be independent in its organisation, legal structure and decision-making from any infrastructure manager, railway undertaking, charging body, allocation body and conformity assessment body and from any party whose interests could conflict with the tasks entrusted to the investigating body. One NIB successfully carries out independent investigations to a good standard but there are some risks that can affect in any moment the independence of NIB: • the actual legislation provision that gives Judiciary authorities the power to request the participation of NIB investigators in the legal proceedings and request the investigation file; • the insufficient investigators - due to that the pay grade is well below the industry it is very difficult to attract and retain competent staff so investigators are not permanent and are on secondment from the IM and RU, (which have the power to terminate it unilaterally at any time). However, the fact that the investigators are on temporary 3-year terms and are on secondment from other parties may compromise the independence of the NIB, as these parties have the power to condition its activity.		There is an insufficient number of experienced investigators and that puts a big pressure on the staff. The limitation imposed by the legislation for employing staff for a limited period and the level of the salary influence in a negative way the NIB activity. There is a risk that without obtaining new investigators, the NIB will lose the excellent momentum as new investigators will need to obtain experience and be trained before the current main investigator retires. The legislation gives the judiciary some rights to seize parts of investigation files and this that can influence the independence of NIB.

6 PEER REVIEW COSTS

The Agency have reimbursed the Panel members for travel and accommodation during 2023. These payments were subject to normal Agency limits on the amount payable. The staff time required for the Peer Reviews was provided by the NIBs without reimbursement from the Agency.

Directive 2016/798 states that participation in the peer review programme is voluntary so there is no direct requirement for national governments to meet panel members' costs. Article 35 of the Regulation 2016/796 indicates that the Agency expects to receive information from an effective peer review programme.

The Agency has in the budget for 2024 allocated funds for reimbursing peer review activities which will hopefully lead to more NIBs participating as Panel members.

The NIB Network is willing to work with the Agency to look for an ongoing funding of the peer review. If the peer review process doesn't have a continuous financing plan it can affect the peer review process which could lead to that the peer review process may not fully achieve the railway safety improvements available from a fully effective review process.

7 COMMON PEER REVIEW PROGRAMME

The programme below is published to comply with Paragraph 22(7)(a) of the Directive (EU) 2016/798.

Year	NIBs	Status
2018	Romania, Czech Republic and Denmark	Completed
2019	Norway and Lithuania	Completed
2020	Sweden, Hungary and Croatia	Completed (Postponed until 2021 due to the pandemic situation)
2021	Sweden and Croatia	Completed (Hungary postponed until 2022)
2022	Germany, Ireland, Hungary	Completed
2023	Belgium, Finland. Portugal	Completed (Spain postponed until 2024)
2024	France, Netherlands, Spain, Switzerland	Planned
2025	UK	Planned, more NIBs TBA