

Making the railway system
work better for society.

OPINION

ERA/OPI/2026-7

OF THE EUROPEAN UNION AGENCY FOR RAILWAYS

for

AUSTRIA

regarding

Seventy-four (74) notified adopted national rules setting out
requirements on operational aspects

Disclaimer:

The present document is a non-legally binding opinion of the European Union Agency for Railways. It does not represent the view of other EU institutions and bodies, and is without prejudice to the decision-making processes foreseen by the applicable EU legislation. Furthermore, a binding interpretation of EU law is the sole competence of the Court of Justice of the European Union.

1. General Context

In line with Article 8 of Directive (EU) 2016/798 (Railway Safety Directive or RSD) and Article 26 of Regulation (EU) 2016/796 (the Agency Regulation), this opinion covers the examination by the European Union Agency for Railways (hereinafter the Agency or ERA) of seventy-four (74) Austrian adopted national rules setting requirements on several operational aspects.

Austria notified these rules in the Single Rules Database (SRD) on 1st of June 2024¹ and on 3rd of June 2024². The Agency assessed them and reached the conclusion (also recorded in the SRD) that the notified adopted rules contain requirements which, according to the Agency's opinion, are not in line with the EU legal framework, mainly Commission Implementing Regulation (EU) 2019/773 (TSI OPE) and Commission Delegated Regulation (EU) 2018/762 establishing common safety methods on safety management system requirements (CSM-SMS)³.

In agreement with the Member State, the timeframe for the Agency's assessment of the notified rules was extended until 31 December 2024. The Agency shared with the Austria its negative assessment between 28 October 2024 and 4 December 2024 in several portions.

Considering the high number of notified rules and to facilitate several further discussions⁴, the Member State had the 2-months' timeframe for submitting their position extended to 30 April 2026. On 26 April 2026, Austria notified the Agency via SRD its rejection of the Agency's negative assessment of seventy-four (74) adopted national rules.

This opinion is addressed to Austria with a copy to the European Commission (EC).

It is uploaded on the Single Rules Database (SRD) and on the Agency's website.

2. Legal Background

Article 26 (3) of the Regulation (EU) 2016/796 sets out the following:

Where the examination referred to in paragraph 1 leads to a negative assessment, the Agency shall inform the Member State concerned and ask it to state its position regarding that assessment. If, following that exchange of views with the Member State concerned, the Agency maintains its negative assessment, the Agency shall within a maximum period of 1 month:

(a) issue an opinion addressed to the Member State concerned, stating that the national rule or rules in question has or have been the subject of a negative assessment and the reasons why the rule or rules in question should be modified or repealed; and

(b) inform the Commission of its negative assessment, stating the reasons why the national rule or rules in question should —be modified or repealed.

This opinion is issued pursuant to Article 26 (3) of the Regulation (EU) 2016/796.

This opinion points out that the national rules adopted by Austria are not within the scope of the assessment and/or conflict with already harmonised EU legislation, according to the analysis and the Annex to this opinion. The applicable EU legislation which is relevant for this opinion is:

¹ This date applies for following rules: all rules part of this opinion except the ones mentioned under footnote 2 here below.

² This date applies for following rules: [AT-SA-1235-1-A](#), [AT-SA-1243-1-A](#) & [AT-SA-1256-1-A](#)

³ Detailed information as also the reference to the legal acts is included in the table in part 3 of this opinion.

⁴ In 2026, 4 meetings between ERA, the EC and Austria were held to discuss the cleaning-up process on all SRD notification, the meetings took place on 14/01; 5/02; 13/03 and on 20/04.

- Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety,
- Commission Implementing Regulation (EU) 2019/773 of 16 May 2019 on the technical specification for interoperability relating to the operation and traffic management subsystem of the rail system within the European Union and repealing Decision 2012/757/EU, as amended by:
 - o Commission Implementing Regulation (EU) 2020/778 of 12 June 2020
 - o Commission Implementing Regulation (EU) 2021/2238 of 15 December 2021
 - o Commission Implementing Regulation (EU) 2023/1693 of 10 August 2023
 - o Commission Implementing Regulation (EU) 2025/458 of 10 March 2025,
- Commission Delegated Regulation (EU) 2018/762 of 8 March 2018 establishing common safety methods on safety management system requirements pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulations (EU) No 1158/2010 and (EU) No 1169/2010,
- Commission Regulation (EU) No 1078/2012 of 16 November 2012 on a common safety method for monitoring to be applied by railway undertakings, infrastructure managers after receiving a safety certificate or safety authorisation and by entities in charge of maintenance,
- Commission Delegated Regulation (EU) 2018/761 of 16 February 2018 establishing common safety methods for supervision by national safety authorities after the issue of a single safety certificate or a safety authorisation pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 1077/2012,
- Commission Implementing Regulation (EU) No 402/2013 of 30 April 2013 on the common safety method for risk evaluation and assessment and repealing Regulation (EC) No 352/2009,
- Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work.

3. Analysis

The negatively assessed seventy-four (74) notified adopted rules are provisions contained in three legal documents:

- ‘EisbKrV – Verordnung der Bundesminister für Verkehr, Innovation und Technologie über die Sicherung von Eisenbahnkreuzungen und das Verhalten bei der Annäherung an und beim Übersetzen von eisenbahnkreuzungen’
- ‘EisbAV – Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen’
- ‘EisbBBV – Verordnung über den Bau und Betrieb von Eisenbahnen’

The rules were notified as type 3 rules with the following scopes defined: ‘other NSR’ and ‘Signalling rules’.

In the table below details on the notified content of the negatively assessed rules, the MS position and the Agency’s analysis can be consulted.

No	Rule ID	Rule content	Notified as	ERA assessment result	Member State’s (MS) position on ERA’s negative assessment	MS position (translated in English)	ERA’s final opinion
1	AT-SA-1396-1-A	<u>EisbKrV - Verordnung der Bundesminister für Verkehr, Innovation und Technologie über die Sicherung von Eisenbahnkreuzungen und das Verhalten bei der Annäherung an und beim Übersetzen von Eisenbahnkreuzungen (Eisenbahnkreuzungsverordnung 2012 - EisbKrV) in der Fassung BGBl. II Nr. 216/2012 - §58-61</u> ; Rules concerning rolling stock’s acoustic signals	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule under the area for NR (TSI OPE Appendix I) - Signalling rules - Rules related to the operational use of the national signalling system. The rule as notified sets out additional provisions on rolling stock acoustic signals applicable for the IM and the RU. The rule does not meet the notified scope and does not fall under the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule referred to in the legal document need to be addressed in the company’s safety management system. The rule cannot be accepted.	MS rejected ERA’s negative assessment	The provisions contain rules governing the operational use of the national signaling system. According to Annex I of the OPE TSI, national regulations remain permissible in this area. These provisions were originally accepted by the Agency. The Agency has not provided any specific justification as to why these provisions are now deemed impermissible—contrary to the original assessment. Austria will nevertheless include the provisions in its “clean-up” process and evaluate them. However, the Agency’s assertion that the provisions should be regulated in the companies’ SMS and that national regulations are therefore not permissible cannot be accepted.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency’s position. The rule is notified as a signalling rule but does not fit this notification scope. Signalling rules are limited to setting what the signal requirements are and with this information the RU/IM can develop operational procedures. It is crucial that the RU develops operational rules based on the outputs from their risk assessment which is particularly important for cross border operations. The Agency provided during several bilaterals that took place on 13/03/2026 & 20/04/2026 additional argumentation on what rules can be allowed as a signalling rule and what cannot be allowed as a signalling rule. The rule cannot be accepted.
2	AT-SA-1387-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - Anhang 1</u> : Expertise in the field of safety guards	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as ‘other NSR’. The rule sets out provisions (the number of training hours and the content) on the expertise in the field of safety guards and is applicable for railway undertakings and infrastructure managers. The TSI OPE, as amended in 2023, does not admit any national rule on competence as the open point in Appendix I on professional competence relates exclusively to IM staff who are signallers and/or IM staff dispatching trains and authorizing train movements. The Regulation (EU) 2018/762 defines the responsibility of the Rus/IMs, as part of their Safety Management System (SMS), to define their own organisation including all (safety-)relevant tasks, competences and training programs, etc. When defining their internal roles and organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. In addition, the Regulation (EU) 2018/762, annex I point 4.2.1 mandates that: ‘The organisation’s competence management system shall ensure that staff having a role that affects safety are	MS rejected ERA’s negative assessment	This provision is a piece of legislation on health and safety at work and is therefore intended to transpose Directive 89/391/EEC. In this context, reference may also be made to recital 8 of Regulation (EU) 2018/762 on common safety methods as regards the requirements for safety management systems under Directive (EU) 2016/798. It provides: ‘The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual Directives are fully applicable to the health and safety of workers engaged in the construction, operation and maintenance of the railways. No additional responsibilities or tasks arise for the issuing authority, which only has to verify whether the health and safety risks have been taken into account by the applicant for a single safety certificate or a safety authorisation.’ The OPE TSI itself also does not contain any safety and health requirements other than those relating to medical examinations. Repeal of the scheme in question would therefore lead to a safety gap and would run counter to the objectives of Directive 89/391/EEC. In Austria’s view, it is therefore imperative to maintain the relevant provision.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency’s position. The rule is notified as ‘other NSR’. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.

				competent in the safety-related tasks for which they are responsible...'. These cannot be defined in national rules but should be part of a risk-based approach that is company specific.			
3	AT-SA-1386-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - Anhang 2: Expertise in the field of safety supervision	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule sets out provisions (the number of training hours and the content) on the expertise in the field of safety supervision and is applicable for railway undertakings and infrastructure managers. The TSI OPE, as amended in 2023, does not admit any national rule on competence as the open point in Appendix I on professional competence relates exclusively to IM staff who are signallers and/or IM staff dispatching trains and authorizing train movements. The Regulation (EU) 2018/762 defines the responsibility of the Rus/IMs, as part of their Safety Management System (SMS), to define their own organisation including all (safety-)relevant tasks, competences and training programs, etc. When defining their internal roles and organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. In addition, the Regulation (EU) 2018/762, annex I point 4.2.1 mandates that: 'The organisation's competence management system shall ensure that staff having a role that affects safety are competent in the safety-related tasks for which they are responsible...'. These cannot be defined in national rules but should be part of a risk-based approach that is company specific. The rule cannot be accepted.	MS rejected ERA's negative assessment	This provision is a piece of legislation on health and safety at work and is therefore intended to transpose Directive 89/391/EEC. In this context, reference may also be made to recital 8 of Regulation (EU) 2018/762 on common safety methods as regards the requirements for safety management systems under Directive (EU) 2016/798. It provides: 'The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual Directives are fully applicable to the health and safety of workers engaged in the construction, operation and maintenance of the railways. No additional responsibilities or tasks arise for the issuing authority, which only has to verify whether the health and safety risks have been taken into account by the applicant for a single safety certificate or a safety authorisation.' The OPE TSI itself also does not contain any safety and health requirements other than those relating to medical examinations. Repeal of the scheme in question would therefore lead to a safety gap and would run counter to the objectives of Directive 89/391/EEC. In Austria's view, it is therefore imperative to maintain the relevant provision.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
4	AT-SA-1385-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §53: Legal Validity	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains the entering into force of the legal document (and specific paragraphs in the legal document) and is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
5	AT-SA-1384-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §52: Transitional provisions	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains the transitional provisions of the legal document and is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule referred to in the legal document need to be addressed in the company's safety management system. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC.

			traffic management system;			and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
6	AT-SA-1383-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - 9. Abschnitt: 9. section, final provisions	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains the final provisions of the legal document and is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. See also Rule ID AT-SA-1384-1-A & AT-SA-1385-1-A. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
7	AT-SA-1382-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §51: Authorization of training facilities	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on the authorization of training facilities and is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
8	AT-SA-1381-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on participation in training and is applicable for railway undertakings and infrastructure managers. The TSI OPE, as amended in 2023, does not admit any national rule on competence as the open point in Appendix I on professional competence relates exclusively to IM staff who are signalers	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to

		- EisbAV) - §50: Participation in training	traffic management system;	and/or IM staff dispatching trains and authorizing train movements. The Regulation (EU) 2018/762 defines the responsibility of the Rus/IMs, as part of their Safety Management System (SMS), to define their own organisation including all (safety-)relevant tasks, competences and training programs, etc. When defining their internal roles and organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. In addition, the Regulation (EU) 2018/762, annex I point 4.2.1 mandates that: 'The organisation's competence management system shall ensure that staff having a role that affects safety are competent in the safety-related tasks for which they are responsible...'. These cannot be defined in national rules but should be part of a risk-based approach that is company specific. The rule cannot be accepted.		into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
9	AT-SA-1380-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §49: Expertise training	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on expertise training and refers to the training hours and content. The rule is applicable for railway undertakings and infrastructure managers. The TSI OPE, as amended in 2023, does not admit any national rule on competence as the open point in Appendix I on professional competence relates exclusively to IM staff who are signallers and/or IM staff dispatching trains and authorizing train movements. The Regulation (EU) 2018/762 defines the responsibility of the Rus/IMs, as part of their Safety Management System (SMS), to define their own organisation including all (safety-)relevant tasks, competences and training programs, etc. When defining their internal roles and organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. In addition, the Regulation (EU) 2018/762, annex I point 4.2.1 mandates that: 'The organisation's competence management system shall ensure that staff having a role that affects safety are competent in the safety-related tasks for which they are responsible...'. These cannot be defined in national rules but should be part of a risk-based approach that is company specific. See also Rule ID AT-SA-1386-1-A, AT-SA-1387-1-A & AT-SA-1388-1-A. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
10	AT-SA-1379-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §48: Employing employees with specialised knowledge	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on expertise for employees. The rule is applicable for railway undertakings and infrastructure managers. The TSI OPE, as amended in 2023, does not admit any national rule on competence as the open point in Appendix I on professional competence relates exclusively to IM staff who are signallers and/or IM staff dispatching trains and authorizing train movements. The Regulation (EU) 2018/762 defines the responsibility of the Rus/IMs, as part of their Safety Management System (SMS), to define their own organisation including all (safety-)relevant tasks, competences and training programs, etc. When defining their internal roles and organisation they should take into account a wide range of factors, such as the results of risk assessment	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.

				including HOF, in line with the scope and the area of operations. In addition, the Regulation (EU) 2018/762, annex I point 4.2.1 mandates that: 'The organisation's competence management system shall ensure that staff having a role that affects safety are competent in the safety-related tasks for which they are responsible...'. These cannot be defined in national rules but should be part of a risk-based approach that is company specific.		of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	
11	AT-SA-1378-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - 8. Abschnitt:</u> 8. section, proof of specialised knowledge	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on expertise for employees. The rule is applicable for railway undertakings and infrastructure managers. The TSI OPE, as amended in 2023, does not admit any national rule on competence as the open point in Appendix I on professional competence relates exclusively to IM staff who are signalers and/or IM staff dispatching trains and authorizing train movements. The Regulation (EU) 2018/762 defines the responsibility of the Rus/IMs, as part of their Safety Management System (SMS), to define their own organisation including all (safety-)relevant tasks, competences and training programs, etc. When defining their internal roles and organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. In addition, the Regulation (EU) 2018/762, annex I point 4.2.1 mandates that: 'The organisation's competence management system shall ensure that staff having a role that affects safety are competent in the safety-related tasks for which they are responsible...'. These cannot be defined in national rules but should be part of a risk-based approach that is company specific. See also Rule ID AT-SA-1379-1-A, AT-SA-1380-1-A, AT-SA-1381-1-A & AT-SA-1382-1-A.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
12	AT-SA-1377-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §46:</u> Driver's cabs for locomotives and control cars	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on the design and equipment of driver's cabs for locomotives and control cars and is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
13	AT-SA-1376-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von</u>	3. Common operating rules of the railway network that are not yet covered by TSIs,	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on the design of Rolling stock to fulfil their intended purpose to operate safely. The rule is applicable for railway undertakings and infrastructure managers. This rule does	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety

		<u>Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §46:</u> Rolling stock	including rules relating to the signalling and traffic management system;	not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.		safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
14	AT-SA-1375-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §45:</u> Braking shoe	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on the design of braking shoes. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
15	AT-SA-1374-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §44:</u> Cable and chain hoist systems	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on the design of cable and chain hoist systems. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.

16	AT-SA-1373-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §43</u> : Turning devices and traversers	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on turntables and sliding platforms. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
17	AT-SA-1372-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - 7. Abschnitt</u> : 7. section, Condition of work equipment	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on the characteristics of work equipment. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted. See also Rule ID AT-SA-1373-1-A, AT-SA-1374-1-A, AT-SA-1375-1-A, AT-SA-1376-1-A & AT-SA-1377-1-A.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
18	AT-SA-1371-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §42</u> : Safety and health protection documents	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on safety and health documents and is applicable for railway undertakings and infrastructure managers. The TSI OPE, as amended in 2023, does not admit any national rule on health and safety conditions other than alcohol, drugs and psychotropic medication limits. The Regulation (EU) 2018/762 defines the responsibility of the Rus/IMs, as part of their Safety Management System (SMS), to define their own organisation including all (safety-)relevant tasks, competences and training programs, etc. When defining their internal roles and organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. In addition, the Regulation (EU) 2018/762, annex I point 3.1.1.2 mandates that "When assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.

				working environment which conforms to applicable legislation, in particular Directive 89/391/EEC.' These cannot be defined in national rules but should be part of a risk-based approach that is company specific. The rule cannot be accepted.		to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	
19	AT-SA-1370-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §41a</u> : Maintenance book, test results	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on maintenance books and keeping test results. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
20	AT-SA-1369-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §41</u> : Inspection after installation	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on inspection after installation of work equipment. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule referred to in the legal document need to be addressed in the company's safety management system. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
21	AT-SA-1368-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §40</u> : Inspection after extraordinary events	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on inspection after exceptional events of work equipment. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.

						taken health and safety risks into account.” The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria’s perspective, retaining the relevant provision is therefore absolutely necessary.	
22	AT-SA-1367-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §39</u> ; Periodic inspections	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on periodic inspections of work equipment. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule referred to in the legal document need to be addressed in the company’s safety management system. The rule cannot be accepted.	MS rejected ERA’s negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: “The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account.” The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria’s perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency’s position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
23	AT-SA-1366-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §38</u> ; acceptance test	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on acceptance test of work equipment. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA’s negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: “The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account.” The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria’s perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency’s position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
24	AT-SA-1365-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - 6. Abschnitt</u> ; 6. section, general provisions for work equipment	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on the general provision for work equipment. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted. See also Rule ID AT-SA-1366-1-A, AT-SA-1367-1-A, AT-SA-1368-1-A, AT-SA-1369-1-A, AT-SA-1370-1-A & AT-SA-1371-1-A.	MS rejected ERA’s negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: “The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency’s position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is

						for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account.” The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria’s perspective, retaining the relevant provision is therefore absolutely necessary.	company specific and cannot be defined in national rules. The rule cannot be accepted.
25	AT-SA-1364-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §37a</u> : Marking of obstacles and danger spots	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on marking of obstacles and hazards and is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA’s negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: “The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account.” The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria’s perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency’s position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
26	AT-SA-1363-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §37</u> : Signals	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on marking of signals for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA’s negative assessment	This provision is a piece of legislation on health and safety at work and is therefore intended to transpose Directive 89/391/EEC. In this context, reference may also be made to recital 8 of Regulation (EU) 2018/762 on common safety methods as regards the requirements for safety management systems under Directive (EU) 2016/798. It provides: ‘The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual Directives are fully applicable to the health and safety of workers engaged in the construction, operation and maintenance of the railways. No additional responsibilities or tasks arise for the issuing authority, which only has to verify whether the health and safety risks have been taken into account by the applicant for a single safety certificate or a safety authorisation.’ The OPE TSI itself also does not contain any safety and health requirements other than those relating to medical examinations. Repeal of the scheme in question would therefore lead to a safety gap and would run counter to the objectives of Directive 89/391/EEC. In addition, the provision contains requirements for the national signalling system, which are also permitted in accordance with Appendix I of the OPE TSI. In Austria’s view, it is therefore imperative to maintain the relevant provision.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency’s position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
27	AT-SA-1362-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung</u>	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on identification and marking and is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive	MS rejected ERA’s negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: “The safety management system should take	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency’s position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to

		- EisbAV) - 5. Abschnitt: 5. section, identification marking	traffic management system;	(EU) 2016/798. The rule cannot be accepted. See also Rule ID AT-SA-1363-1-A & AT-SA-1364-1-A		into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
28	AT-SA-1361-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §36: construction work in dangerous areas of tracks	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on construction work in dangerous areas of tracks and is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762, annex I point 3.1.1.2 mandates that 'When assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe working environment which conforms to applicable legislation, in particular Directive 89/391/EEC.' These cannot be defined in national rules but should be part of a risk-based approach that is company specific. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
29	AT-SA-1360-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §35: Construction works on track switches	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on construction work track switches and is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762, annex I point 3.1.1.2 mandates that 'When assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe working environment which conforms to applicable legislation, in particular Directive 89/391/EEC.' These cannot be defined in national rules but should be part of a risk-based approach that is company specific. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
30	AT-SA-1359-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von	3. Common operating rules of the railway network that are not yet covered by TSIs,	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on the storage of work equipment and material and is applicable for railway undertakings and	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety

		<p>Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §34: Storage of working equipment and working materials</p>	<p>including rules relating to the signalling and traffic management system;</p>	<p>infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798.</p>		<p>safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.</p>	<p>rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.</p>
31	<p>AT-SA-1358-1-A</p>	<p>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §33: Behavior at construction work</p>	<p>3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;</p>	<p>The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on behaviour during construction work and is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762, annex I point 3.1.1.2 mandates that 'When assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe working environment which conforms to applicable legislation, in particular Directive 89/391/EEC.' These cannot be defined in national rules but should be part of a risk-based approach that is company specific.</p>	<p>MS rejected ERA's negative assessment</p>	<p>This provision is a piece of legislation on health and safety at work and is therefore intended to transpose Directive 89/391/EEC. In this context, reference may also be made to recital 8 of Regulation (EU) 2018/762 on common safety methods as regards the requirements for safety management systems under Directive (EU) 2016/798. It provides: 'The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual Directives are fully applicable to the health and safety of workers engaged in the construction, operation and maintenance of the railways. No additional responsibilities or tasks arise for the issuing authority, which only has to verify whether the health and safety risks have been taken into account by the applicant for a single safety certificate or a safety authorisation.' The OPE TSI itself also does not contain any safety and health requirements other than those relating to medical examinations. Repeal of the scheme in question would therefore lead to a safety gap and would run counter to the objectives of Directive 89/391/EEC. In addition, the provision lays down requirements on the working conditions during construction works, which are permitted under Annex I of the OPE TSI. In Austria's view, it is therefore imperative to maintain the relevant provision</p>	<p>The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.</p>
32	<p>AT-SA-1357-1-A</p>	<p>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §32: Preparation of construction work</p>	<p>3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;</p>	<p>The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on behaviour during construction work and is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762 defines the responsibility of the RUs/IMs, as part of their Safety Management System (SMS), to ensure safety-related information is exchanged among the different levels of the organisation. When defining their internal organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. These provisions need to be addressed in the safety management system and cannot be covered by national rules. The rule cannot be accepted.</p>	<p>MS rejected ERA's negative assessment</p>	<p>This provision is a piece of legislation on health and safety at work and is therefore intended to transpose Directive 89/391/EEC. In this context, reference may also be made to recital 8 of Regulation (EU) 2018/762 on common safety methods as regards the requirements for safety management systems under Directive (EU) 2016/798. It provides: 'The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual Directives are fully applicable to the health and safety of workers engaged in the construction, operation and maintenance of the railways. No additional responsibilities or tasks arise for the issuing authority, which only has to verify whether the health and safety risks have been taken into account by the applicant for a single safety certificate or a safety authorisation.' The OPE TSI itself also does not contain any safety and health requirements other than those relating to medical examinations. Repeal of the scheme in question would therefore lead to a safety gap and would run counter to the objectives of Directive 89/391/EEC. In addition, the provision lays down requirements on the working conditions during construction</p>	<p>The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.</p>

						works, which are permitted under Annex I of the OPE TSI. In Austria's view, it is therefore imperative to maintain the relevant provision.	
33	AT-SA-1356-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §31: Equipment of safety guards</u>	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on work equipment of security posts. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
34	AT-SA-1355-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §30: Tasks of safety guards</u>	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on tasks of safety guards. The rule is applicable for railway undertakings and infrastructure managers. The TSI OPE, as amended in 2023, does not admit any national rule on competence as the open point in Appendix I on professional competence relates exclusively to IM staff who are signallers and/or IM staff dispatching trains and authorizing train movements. The Regulation (EU) 2018/762 defines the responsibility of the Rus/IMs, as part of their Safety Management System (SMS), to define their own organisation including all (safety-)relevant tasks, competences and training programs, etc. When defining their internal roles and organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. In addition, the Regulation (EU) 2018/762, annex I point 4.2.1 mandates that: 'The organisation's competence management system shall ensure that staff having a role that affects safety are competent in the safety-related tasks for which they are responsible...'. These cannot be defined in national rules but should be part of a risk-based approach that is company specific.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
35	AT-SA-1354-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §29: Use of safety guards</u>	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on the use of safety guards. The rule is applicable for railway undertakings and infrastructure managers. The TSI OPE, as amended in 2023, does not admit any national rule on competence as the open point in Appendix I on professional competence relates exclusively to IM staff who are signallers and/or IM staff dispatching trains and authorizing train movements. The Regulation (EU) 2018/762 defines the responsibility of the	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is

				<p>Rus/IMs, as part of their Safety Management System (SMS), to define their own organisation including all (safety-)relevant tasks, competences and training programs, etc. When defining their internal roles and organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. In addition, the Regulation (EU) 2018/762, annex I point 4.2.1 mandates that: 'The organisation's competence management system shall ensure that staff having a role that affects safety are competent in the safety-related tasks for which they are responsible...'. These cannot be defined in national rules but should be part of a risk-based approach that is company specific. The rule cannot be accepted.</p>		<p>for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.</p>	<p>company specific and cannot be defined in national rules. The rule cannot be accepted.</p>
36	AT-SA-1353-1-A	<p>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §28: Tasks of the safety supervision</p>	<p>3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;</p>	<p>The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on tasks of safety supervision. The rule is applicable for railway undertakings and infrastructure managers. The TSI OPE, as amended in 2023, does not admit any national rule on competence as the open point in Appendix I on professional competence relates exclusively to IM staff who are signallers and/or IM staff dispatching trains and authorizing train movements.</p> <p>The Regulation (EU) 2018/762 defines the responsibility of the Rus/IMs, as part of their Safety Management System (SMS), to define their own organisation including all (safety-)relevant tasks, competences and training programs, etc. When defining their internal roles and organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. In addition, the Regulation (EU) 2018/762, annex I point 4.2.1 mandates that: 'The organisation's competence management system shall ensure that staff having a role that affects safety are competent in the safety-related tasks for which they are responsible...'. These cannot be defined in national rules but should be part of a risk-based approach that is company specific. The rule cannot be accepted.</p>	<p>MS rejected ERA's negative assessment</p>	<p>The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.</p>	<p>The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.</p>
37	AT-SA-1352-1-A	<p>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §27: Use of the safety supervision</p>	<p>3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;</p>	<p>The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on the use of safety supervision. The rule is applicable for railway undertakings and infrastructure managers. The TSI OPE, as amended in 2023, does not admit any national rule on competence as the open point in Appendix I on professional competence relates exclusively to IM staff who are signallers and/or IM staff dispatching trains and authorizing train movements.</p> <p>The Regulation (EU) 2018/762 defines the responsibility of the Rus/IMs, as part of their Safety Management System (SMS), to define their own organisation including all (safety-)relevant tasks, competences and training programs, etc. When defining their internal roles and organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. In addition, the Regulation (EU) 2018/762, annex I point 4.2.1</p>	<p>MS rejected ERA's negative assessment</p>	<p>The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter</p>	<p>The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.</p>

				mandates that: 'The organisation's competence management system shall ensure that staff having a role that affects safety are competent in the safety-related tasks for which they are responsible...'. These cannot be defined in national rules but should be part of a risk-based approach that is company specific. The rule cannot be accepted.		to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	
38	AT-SA-1351-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §26b: Safety measures for third parties	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on safety measures for third parties in regard to construction work and is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762 defines the responsibility of the RUs/IMs, as part of their Safety Management System (SMS), to ensure safety-related information is exchanged among the different levels of the organisation. When defining their internal organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. These provisions need to be addressed in the safety management system and cannot be covered by national rules. the rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
39	AT-SA-1350-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §26a: Safety measures in tunnels	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on safety measures in tunnels and is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762 defines the responsibility of the RUs/IMs, as part of their Safety Management System (SMS), to ensure safety-related information is exchanged among the different levels of the organisation. When defining their internal organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. These provisions need to be addressed in the safety management system and cannot be covered by national rules. the rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
40	AT-SA-1349-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §26: Safety measures	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on safety measures and is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762 defines the responsibility of the RUs/IMs, as part of their Safety Management System (SMS), to ensure safety-related information is exchanged among the different levels of the organisation. When defining their internal organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. These provisions need to be addressed in	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is

				the safety management system and cannot be covered by national rules. the rule cannot be accepted.		for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	company specific and cannot be defined in national rules. The rule cannot be accepted.
41	AT-SA-1348-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §25a: Principle provisions for construction work	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains basic provisions for construction works and is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762, annex I point 3.1.1.2 mandates that 'When assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe working environment which conforms to applicable legislation, in particular Directive 89/391/EEC.' These cannot be defined in national rules but should be part of a risk-based approach that is company specific. The rule cannot be accepted.	MS rejected ERA's negative assessment	This provision is a piece of legislation on health and safety at work and is therefore intended to transpose Directive 89/391/EEC. In this context, reference may also be made to recital 8 of Regulation (EU) 2018/762 on common safety methods as regards the requirements for safety management systems under Directive (EU) 2016/798. It provides: 'The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual Directives are fully applicable to the health and safety of workers engaged in the construction, operation and maintenance of the railways. No additional responsibilities or tasks arise for the issuing authority, which only has to verify whether the health and safety risks have been taken into account by the applicant for a single safety certificate or a safety authorisation.' The OPE TSI itself also does not contain any safety and health requirements other than those relating to medical examinations. Repeal of the scheme in question would therefore lead to a safety gap and would run counter to the objectives of Directive 89/391/EEC. In addition, the provision contains requirements for operation during construction works, which are also permitted under Annex I of the OPE TSI. In Austria's view, it is therefore imperative to maintain the relevant provision.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
42	AT-SA-1347-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §25: Operational rules for construction work	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on the operating instructions for construction works. The rule is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762 defines the responsibility of the RUs/IMs, as part of their Safety Management System (SMS), to ensure safety-related information is exchanged among the different levels of the organisation. When defining their internal organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. These provisions need to be addressed in the safety management system and cannot be covered by national rules. the rule cannot be accepted.	MS rejected ERA's negative assessment	This provision is a piece of legislation on health and safety at work and is therefore intended to transpose Directive 89/391/EEC. In this context, reference may also be made to recital 8 of Regulation (EU) 2018/762 on common safety methods as regards the requirements for safety management systems under Directive (EU) 2016/798. It provides: 'The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual Directives are fully applicable to the health and safety of workers engaged in the construction, operation and maintenance of the railways. No additional responsibilities or tasks arise for the issuing authority, which only has to verify whether the health and safety risks have been taken into account by the applicant for a single safety certificate or a safety authorisation.' The OPE TSI itself also does not contain any safety and health requirements other than those relating to medical examinations. Repeal of the scheme in question would therefore lead to a safety gap and would run counter to the objectives of Directive 89/391/EEC. In addition, the provision contains requirements for operation during construction works, which are also permitted under Annex I of the OPE TSI. In Austria's view, it is therefore imperative to maintain the relevant provision.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
43	AT-SA-1346-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von	3. Common operating rules of the railway network that are not yet covered by TSIs,	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains additional provisions for construction works and is applicable for railway undertakings and infrastructure managers.	MS rejected ERA's negative assessment	This provision is a piece of legislation on health and safety at work and is therefore intended to transpose Directive 89/391/EEC. In this context, reference may also be made to recital 8 of Regulation (EU) 2018/762 on common safety methods as regards the requirements for	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety

		<p>Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - 4. Abschnitt: 4. section, Additional provisions for construction work</p>	<p>including rules relating to the signalling and traffic management system;</p>	<p>The Regulation (EU) 2018/762, annex I point 3.1.1.2 mandates that 'When assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe working environment which conforms to applicable legislation, in particular Directive 89/391/EEC.' These cannot be defined in national rules but should be part of a risk-based approach that is company specific. See also Rule ID AT-SA-1347-1-A until Rule ID AT-SA-1361-1-A.</p>		<p>safety management systems under Directive (EU) 2016/798. It provides: 'The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual Directives are fully applicable to the health and safety of workers engaged in the construction, operation and maintenance of the railways. No additional responsibilities or tasks arise for the issuing authority, which only has to verify whether the health and safety risks have been taken into account by the applicant for a single safety certificate or a safety authorisation.' The OPE TSI itself also does not contain any safety and health requirements other than those relating to medical examinations. Repeal of the scheme in question would therefore lead to a safety gap and would run counter to the objectives of Directive 89/391/EEC. In addition, the provision contains requirements for operation during construction works, which are also permitted under Annex I of the OPE TSI. In Austria's view, it is therefore imperative to maintain the relevant provision.</p>	<p>rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.</p>
44	<p>AT-SA-1345-1-A</p>	<p>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von Gleisen (Eisenbahn-ArbeitnehmerInnen im Bereich von - EisbAV) - §24: Use of workers</p>	<p>3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;</p>	<p>The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on the use of employees. The rule is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762, annex I point 3.1.1.2 mandates that 'When assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe working environment which conforms to applicable legislation, in particular Directive 89/391/EEC.' These cannot be defined in national rules but should be part of a risk-based approach that is company specific. The rule cannot be accepted.</p>	<p>MS rejected ERA's negative assessment</p>	<p>The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.</p>	<p>The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.</p>
45	<p>AT-SA-1344-1-A</p>	<p>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von Gleisen (Eisenbahn-ArbeitnehmerInnen im Bereich von - EisbAV) - §23: Equipment with working materials</p>	<p>3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;</p>	<p>The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on work equipment of employees. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.</p>	<p>MS rejected ERA's negative assessment</p>	<p>The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.</p>	<p>The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.</p>

46	AT-SA-1343-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §22</u> : Personal protective equipment and work clothing	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on personal protective work equipment and work clothing. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
47	AT-SA-1342-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §21</u> : Supervision of level crossings	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on the guarding of level crossings and the safety measures to be applied. The rule is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762, annex I point 3.1.1.2 mandates that 'When assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe working environment which conforms to applicable legislation, in particular Directive 89/391/EEC.' These cannot be defined in national rules but should be part of a risk-based approach that is company specific. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
48	AT-SA-1341-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §20</u> : Use of turning devices and traversers	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on the use of turntables and sliding platforms. The rule is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762 defines the responsibility of the Rus/IMs, as part of their Safety Management System (SMS), to ensure safety-related information is exchanged among the different levels of the organisation. When defining their internal organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. These provisions need to be addressed in the safety management system and cannot be covered by national rules as they should be part of a risk-based approach that is company specific. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision concerning occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.

						to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	
49	AT-SA-1340-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §19: Loading and unloading of rail vehicles	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on loading and unloading of railway vehicles. The rule is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762 defines the responsibility of the Rus/IMs, as part of their Safety Management System (SMS), to ensure safety-related information is exchanged among the different levels of the organisation. When defining their internal organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. These provisions need to be addressed in the safety management system and cannot be covered by national rules as they should be part of a risk-based approach that is company specific. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
50	AT-SA-1339-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §18: Setting up and securing of rail vehicles	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on setting up and securing rail vehicles. The rule is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762, annex I point 3.1.1.2 mandates that 'When assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe working environment which conforms to applicable legislation, in particular Directive 89/391/EEC.' These cannot be defined in national rules but should be part of a risk-based approach that is company specific. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
51	AT-SA-1338-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §17: Behavior on rail vehicles during the run	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on behaviour on rail vehicles while driving. The rule is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762, annex I point 3.1.1.2 mandates that 'When assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe working environment which conforms to applicable legislation, in particular Directive 89/391/EEC.' These cannot be defined in national rules but should be part of a risk-based approach that is company specific. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.

						of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	
52	AT-SA-1337-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §16: Coupling	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on coupling of rail vehicles while driving. The rule is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762, annex I point 3.1.1.2 mandates that 'When assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe working environment which conforms to applicable legislation, in particular Directive 89/391/EEC.' These cannot be defined in national rules but should be part of a risk-based approach that is company specific. The rule cannot be accepted	MS rejected ERA's negative assessment	The provision in question is a legal provision concerning occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of the provisions on medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. In addition, the provision contains requirements for shunting that are also permitted under Annex I of the OPE TSI. From Austria's perspective, it is therefore essential that this provision be retained.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
53	AT-SA-1335-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §15: Moving of rail vehicles	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on moving of rail vehicles while driving. The rule is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762, annex I point 3.1.1.2 mandates that 'When assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe working environment which conforms to applicable legislation, in particular Directive 89/391/EEC.' These cannot be defined in national rules but should be part of a risk-based approach that is company specific. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
54	AT-SA-1335-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §14: General provisions on behavior in the danger zone of tracks	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains general provisions on behaviour in the danger zone of tracks. The rule is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762, annex I point 3.1.1.2 mandates that 'When assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe working environment which conforms to applicable legislation, in particular Directive 89/391/EEC.' These cannot be	MS rejected ERA's negative assessment	The provision in question is a legal provision concerning occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is

				defined in national rules but should be part of a risk-based approach that is company specific. The rule cannot be accepted.		for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	company specific and cannot be defined in national rules. The rule cannot be accepted.
55	AT-SA-1334-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §13: Operational instructions</u>	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on operating instructions. The rule is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762 defines the responsibility of the Rus/IMs, as part of their Safety Management System (SMS), to ensure safety-related information is exchanged among the different levels of the organisation. When defining their internal organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. These provisions need to be addressed in the safety management system and cannot be covered by national rules as they should be part of a risk-based approach that is company specific. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
56	AT-SA-1333-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - 3. Abschnitt: 3. section, work processes</u>	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on work processes. The rule is applicable for railway undertakings and infrastructure managers. The Regulation (EU) 2018/762 defines the responsibility of the Rus/IMs, as part of their Safety Management System (SMS), to ensure safety-related information is exchanged among the different levels of the organisation. When defining their internal organisation they should take into account a wide range of factors, such as the results of risk assessment including HOF, in line with the scope and the area of operations. These provisions need to be addressed in the safety management system and cannot be covered by national rules. the rule cannot be accepted. See also Rule ID AT-SA-1333-1-A until Rule ID AT-SA-1345-1-A.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
57	AT-SA-1332-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung</u>	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on crossings with other rail-bound transport facilities. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC.

		- EisbAV) - §12: Crossings with other rail-bound transport facilities	traffic management system;			and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account.” The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria’s perspective, retaining the relevant provision is therefore absolutely necessary.	These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
58	AT-SA-1331-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §11: Lighting equipment	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as ‘other NSR’. The rule contains provisions on lighting equipment. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA’s negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: “The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account.” The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria’s perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency’s position. The rule is notified as ‘other NSR’. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
59	AT-SA-1330-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §10: Loading platform	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as ‘other NSR’. The rule contains provisions on loading ramps. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA’s negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: “The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account.” The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria’s perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency’s position. The rule is notified as ‘other NSR’. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
60	AT-SA-1329-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and	The rule is notified as a Type 3 rule as ‘other NSR’. The rule contains provisions on the design of track ends. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA’s negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: “The safety management system should take	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency’s position. The rule is notified as ‘other NSR’. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to

		ArbeitnehmerInnenschutzverordnung - EisbAV) - §9: Track ends	traffic management system;			into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account.” The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria’s perspective, retaining the relevant provision is therefore absolutely necessary.	determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
61	AT-SA-1328-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §8: Special provisions on tunnels	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as ‘other NSR’. The rule contains special provisions for tunnels. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA’s negative assessment	The provision in question is a legal provision concerning occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: “The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account.” The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria’s perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency’s position. The rule is notified as ‘other NSR’. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
62	AT-SA-1327-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §7: Handling space	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as ‘other NSR’. The rule contains provisions on operating room/handling space. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA’s negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: “The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account.” The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria’s perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency’s position. The rule is notified as ‘other NSR’. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
63	AT-SA-1326-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von	3. Common operating rules of the railway network that are not yet covered by TSIs,	The rule is notified as a Type 3 rule as ‘other NSR’. The rule contains provisions on the lateral safety distance. The rule is applicable for railway undertakings and infrastructure managers.	MS rejected ERA’s negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency’s position. The rule is notified as ‘other NSR’. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety

		<p>Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) -§6: Lateral safety distance</p>	<p>including rules relating to the signalling and traffic management system;</p>	<p>This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.</p>		<p>safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.</p>	<p>rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.</p>
64	<p>AT-SA-1325-1-A</p>	<p>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) -§5: Safety space</p>	<p>3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;</p>	<p>The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on safety space/room. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.</p>	<p>MS rejected ERA's negative assessment</p>	<p>The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.</p>	<p>The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.</p>
65	<p>AT-SA-1324-1-A</p>	<p>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §4: Traffic infrastructure for rail vehicles</p>	<p>3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;</p>	<p>The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on roads for rail vehicles (transport route). The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.</p>	<p>MS rejected ERA's negative assessment</p>	<p>The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.</p>	<p>The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.</p>

66	AT-SA-1323-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §3: Traffic infrastructure</u>	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on infrastructure/routes for pedestrians. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
67	AT-SA-1322-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - 2. Abschnitt: 2. section, traffic infrastructure and workstations in the area of tracks</u>	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on traffic routes and workplaces in the area of tracks. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted. See also Rule ID AT-SA-1323-1-A until Rule ID AT-SA-1332-1-A.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
68	AT-SA-1321-1-A	<u>EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §2: Dangerous area of tracks</u>	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains provisions on the dangerous area of tracks. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.

						to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	
69	AT-SA-1320-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - §1: scope	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains the scope of the legal document and is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
70	AT-SA-1319-1-A	EisbAV - Verordnung des Bundesministers für Wissenschaft und Verkehr über den Schutz von ArbeitnehmerInnen im Bereich von Gleisen (Eisenbahn-ArbeitnehmerInnenschutzverordnung - EisbAV) - 1, Abschnitt: 1. section, general provisions	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule as 'other NSR'. The rule contains the general provisions of the legal document. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted. See also Rule ID AT-SA-1320-1-A & Rule ID AT-SA-1321-1-A.	MS rejected ERA's negative assessment	The provision in question is a legal provision on occupational safety and health and thus serves to implement Directive 89/391/EEC. In this context, reference may also be made to Recital 8 of Regulation (EU) 2018/762 on common safety methods regarding the requirements for safety management systems in accordance with Directive (EU) 2016/798. This stipulates: "The safety management system should take into account the fact that Council Directive 89/391/EEC and the provisions of the relevant individual directives apply in full to the health and safety of workers engaged in the construction, operation, and maintenance of the railway. No additional responsibilities or tasks arise for the issuing authority, which is only required to verify whether the applicant for a single safety certificate or a safety authorization has taken health and safety risks into account." The OPE TSI itself also contains no provisions regarding health and safety, with the exception of those concerning medical examinations. Repealing the provision in question would therefore create a safety-related gap and run counter to the objectives of Directive 89/391/EEC. From Austria's perspective, retaining the relevant provision is therefore absolutely necessary.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as 'other NSR'. Only rules which fit the scope of appendix I of the TSI OPE can be accepted as national safety rules. Regulation (EU) 2018/762 annex I point 3.1.1.2 sets out when assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe work environment which conforms to applicable legislation, in particular Directive 89/391/EEC. These provisions should be part of a risk-based approach that is company specific and cannot be defined in national rules. The rule cannot be accepted.
71	AT-SA-1264-1-A	EisbBBV - Verordnung über den Bau und Betrieb von Eisenbahnen (Eisenbahnbau- und -betriebsverordnung – EisbBBV - §91: Tracks or track sections that rolling stock with raised pantographs are not allowed to use	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule under the area for NRS (TSI OPE Appendix I)- Signalling rules-Rules related to the operational use of the national signalling system. The rule reflects on provisions for tracks or track sections where rolling stock with raised pantographs are not allowed and is applicable for railway undertakings and infrastructure managers. The rule is part of an interface between the railway undertaking and the infrastructure manager and needs to be addressed in the company's safety management system. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provisions also include rules governing the operational use of the national signalling system. According to Annex I of the OPE TSI, national regulations remain permissible in this area. These provisions were originally accepted by the Agency. The Agency has not provided any specific justification as to why these provisions are now deemed impermissible—contrary to the original assessment. Austria will nevertheless include the provisions in its "clean-up" process and evaluate them. However, the Agency's current assertion that the requirements must be regulated in the companies' SMS and that a national regulation is not permissible cannot be understood."	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency's position. The rule is notified as a signalling rule but does not fit this notification scope. Signalling rules are limited to setting what the signal requirements are and with this information the RU/IM can develop operational procedures. It is crucial that the RU develops operational rules based on the outputs from their risk assessment which is particularly important for cross border operations. The Agency provided during several bilaterals that took place on 13/03/2026 & 20/04/2026 additional argumentation on what rules can be allowed as a signalling rule and what cannot be allowed as a signalling rule. The rule cannot be accepted.

72	AT-SA-1256-1-A	EisbBBV - Verordnung über den Bau und Betrieb von Eisenbahnen (Eisenbahnbau- und -betriebsverordnung – EisbBBV - §83: Operations of railway safety systems and signals	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule under the area for NRs (TSI OPE Appendix I)- Signalling rules-Rules related to the operational use of the national signalling system. The rule reflects on provisions on operations of railway safety systems and signals and is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule referred to in the legal document need to be addressed in the company's safety management system. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provisions also include rules governing the operational use of the national signaling system. According to Annex I of the OPE TSI, national regulations remain permissible in this area. These provisions were originally accepted by the Agency. The Agency has not provided any specific justification as to why these provisions are now deemed impermissible—contrary to the original assessment. Austria will nevertheless include the provisions in its “clean-up” process and evaluate them. However, the Agency’s current assertion that the requirements must be regulated in the companies’ SMS and that a national regulation is not permissible cannot be understood.”	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency’s position. The rule is notified as a signalling rule but does not fit this notification scope. Signalling rules are limited to setting what the signal requirements are and with this information the RU/IM can develop operational procedures. It is crucial that the RU develops operational rules based on the outputs from their risk assessment which is particularly important for cross border operations. The Agency provided during several bilaterals that took place on 13/03/2026 & 20/04/2026 additional argumentation on what rules can be allowed as a signalling rule and what cannot be allowed as a signalling rule. The rule cannot be accepted.
73	AT-SA-1243-1-A	EisbBBV - Verordnung über den Bau und Betrieb von Eisenbahnen (Eisenbahnbau- und -betriebsverordnung – EisbBBV - §63: Form – main signal	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule under the area for NRs (TSI OPE Appendix I)- Signalling rules-Rules related to the operational use of the national signalling system. The rule states that the provisions of §29 (main signal) (see also Rule ID AT-SA-1209-1-A) apply for the form-main signal. §29 reflects on the installation, specifications and the construction of the main signal. The rule also states provisions on the service, equipment and placement of the form main signal. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provisions also include rules governing the operational use of the national signaling system. According to Annex I of the OPE TSI, national regulations remain permissible in this area. These provisions were originally accepted by the Agency. The Agency has not provided any specific justification as to why these provisions are now deemed inadmissible—contrary to the original assessment. Austria will nevertheless include the provisions in its “clean-up” process and evaluate them.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency’s position. The rule is notified as a signalling rule but does not fit this notification scope. Signalling rules are limited to setting what the signal requirements are and with this information the RU/IM can develop operational procedures. The Agency provided during several bilaterals that took place on 13/03/2026 & 20/04/2026 additional argumentation on what rules can be allowed as a signalling rule and what cannot be allowed as a signalling rule. The rule cannot be accepted.
74	AT-SA-1235-1-A	EisbBBV - Verordnung über den Bau und Betrieb von Eisenbahnen (Eisenbahnbau- und -betriebsverordnung – EisbBBV - §55: Clearing signals	3. Common operating rules of the railway network that are not yet covered by TSIs, including rules relating to the signalling and traffic management system;	The rule is notified as a Type 3 rule under the area for NRs (TSI OPE Appendix I)- Signalling rules-Rules related to the operational use of the national signalling system. The rule contains provisions on 'clearance signals' a.o. installation, visibility and the duty of the RU to set up rules for the application of the signal. The rule is applicable for railway undertakings and infrastructure managers. This rule does not fit the notified scope as it does not contain any information related to the operational use. The rule does not fit the scope of a national rule under Article 8 of Directive (EU) 2016/798. This rule needs to be managed within the safety management system of the company. The rule cannot be accepted.	MS rejected ERA's negative assessment	The provisions also include rules governing the operational use of the national signaling system. According to Annex I of the OPE TSI, national regulations remain permissible in this area. These provisions were originally accepted by the Agency. The Agency has not provided any specific justification as to why these provisions are now deemed impermissible—contrary to the original assessment. Austria will nevertheless include the provisions in its “clean-up” process and evaluate them. However, the Agency’s current assertion that the requirements must be regulated in the companies’ SMS and that a national regulation is not permissible cannot be understood.	The Agency upholds its first assessment. The additional argumentation does not provide elements to review the Agency’s position. The rule is notified as a signalling rule but does not fit this notification scope. It is crucial that the RU develops operational rules based on the outputs from their risk assessment which is particularly important for cross border operations. Signalling rules are limited to setting what the signal requirements are and with this information the RU/IM can develop operational procedures. The Agency provided during several bilaterals that took place on 13/03/2026 & 20/04/2026 additional argumentation on what rules can be allowed as a signalling rule and what cannot be allowed as a signalling rule. The rule cannot be accepted.

4. The opinion

The Agency is of the opinion that the provisions in the seventy-four (74) adopted national safety rules of Austria are not compliant with relevant EU legal requirements as described in part 3 Analysis of this opinion. For this reason, in accordance with Article 26 (3) of Regulation (EU) 2016/796, the Agency with this opinion confirms its negative assessment.

This opinion is addressed to Austria, with a copy to the European Commission (DG Move).

Valenciennes,

Oana GHERGHINESCU
Executive Director

Annex 1

Impact Note

Regarding seventy-four (74) notified adopted national rules by Austria setting out requirements on operational aspects

Issued as per Art. 8(1) of Regulation (EU) 2016/796 and the Impact Assessment procedure adopted by the ERA Management Board (Decision n.290, 16/03/2022)

1. Context and assessment of impacts

1.1. The national rule in object

In line with article 26 (3) of Regulation (EU) 2016/796, this opinion covers the examination of seventy-four (74) adopted national rules notified by Austria in the Single Rules Database (SRD) 1st of June 2024 & on 3rd of June 2024.

The Agency assessed them and reached the conclusion (also recorded in the SRD) that the notified rules contain requirements which according to the Agency's opinion are not in line with the EU legal framework, mainly Regulation (EU) 2019/773 (TSI OPE). In particular, this opinion points out that the national rules proposed by Austria are not within the scope of the assessment and/or conflict with already harmonised EU legislation.

1.2. Analysis performed

In agreement with Austria, the timeframe for the Agency's assessment of the notified rules was extended until 31/12/2024. The Agency shared with the Austria its negative assessment between 28/10/2024 and 4/12/2024 in several portions.

Considering the high number of notified rules and to facilitate several further discussions, the Member State had the 2-months' timeframe for submitting their position extended to 30 April 2026. On 26 April 2026, Austria notified the Agency via SRD its rejection of the Agency's negative assessment of seventy-four (74) adopted national rules.

In chapter 3 of this opinion the Agency provides an overview of the rules. In particular, all the various rules adopted / proposed were found to be not within the scope of the assessment and/or conflict with already harmonised EU legislation. Indeed, the opinion concluded that for all the rules these could be covered by already existing European Instructions. The opinion of the Agency is that the 74 notified adopted rules subject to this opinion contain requirements which according to the Agency's opinion are not in line with the EU legal framework, mainly Regulation (EU) 2019/773 (TSI OPE) and Regulation (EU) 2018/762 establishing common safety methods on safety management system requirements (CSM-SMS).

1.3. Assessment of impacts

The seventy-four (74) adopted national rules notified of Austria fall within the scope of the Light Impact Assessment 'Revision of the Common Safety Methods on Conformity Assessment and the Common Safety Methods on Supervision' performed by the Agency in February 2017 and of the Full Impact Assessment on the TSI OPE Revision carried out in 2018. The impacts were therefore already adequately assessed and it is confirmed that these rules would compromise uniformity of application of well-established EU requirements and increase the risk of low transparency of the national rules framework that stakeholders have to comply within Austria.

In particular the rules negatively assessed duplicate or are not in line with requirements and/or procedures to be addressed in the companies' Safety Management System. It is for the SMS of RU/IM to develop their processes and procedures on the basis of the requirements specified in EU law, including TSI OPE Regulation (EU) 2019/773.

Interoperability and coherence of the EU legal framework across the Union risk to be weakened by duplicating or further supplementing, in the national law, requirements already covered (in a harmonised way) at European level, going against the policy goal of reducing national rules and creating unnecessary burden on stakeholders (including unnecessary efforts to ensure the enforcement of the additional national rules on top of all other existing oversight requirements pertaining to EU law), with no (or doubtful) benefit.

1.4. Stakeholders affected			
Railway undertakings (RU)	<input checked="" type="checkbox"/>	Member States (MS)	<input checked="" type="checkbox"/>
Infrastructure managers (IM)	<input checked="" type="checkbox"/>	Third Countries	<input type="checkbox"/>
Manufacturers	<input type="checkbox"/>	National safety authorities (NSA)	<input checked="" type="checkbox"/>
Keepers	<input type="checkbox"/>	European Commission (EC)	<input checked="" type="checkbox"/>
Entity Managing the Change (EMC)	<input type="checkbox"/>	European Union Agency for Railways (ERA)	<input checked="" type="checkbox"/>
Notified Bodies (NoBo)	<input type="checkbox"/>	Shippers	<input type="checkbox"/>
Associations	<input type="checkbox"/>	Other (Please specify) ...	<input type="checkbox"/>

2. Preferred option
2.1. Recommendation
No alternative options are to be assessed and it is confirmed a negative assessment of the seventy-four (74) adopted national rules notified by Austria.