

Moving Europe towards a
sustainable and safe railway
system without frontiers.

OPINION

ERA/OPI/2026-10

OF THE EUROPEAN UNION AGENCY FOR RAILWAYS

for

SWITZERLAND

regarding

Two (2) draft national rules and four (4) adopted national rules
setting requirements on several 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 Articles 25 (3) and 26 (3) 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 two (2) Swiss draft national rules and four (4) Swiss adopted national rules setting requirements on several operational aspects.

Switzerland originally notified a total of twenty-three (23) rules in the Single Rules Database (SRD) on 23 September 2024. Due to the high workload, the Agency asked Switzerland if the deadline for the assessment could be extended by six months until 23 May 2025, which was agreed by Switzerland.

The Agency assessed the rules and reached its conclusion on 23 May 2025 (also recorded in the SRD). Switzerland requested an extension until 30 August 2025 to consider the Agency's assessment. Detailed discussions took place between the Swiss NSA BAV and the Agency on 30 July 2025 and 13 May 2026. After the discussions, two (2) of the adopted rules were renotified as draft rules and assessed by the Agency on 29 May 2026. A further extension was given until 30 June 2026 for the NSA to consider the Agency's assessment and to finalise their responses to the rules that the Agency would not accept. Switzerland submitted its Preliminary Position in SRD on 29 June 2026.

Out of the twenty-three (23) rules notified, six (6) draft rules and five (5) adopted rules were accepted by the Agency (2 of these have now been subsequently withdrawn) and six (6) rules are now subject to this technical opinion: two (2) draft rules¹ and four (4) adopted rules².

The opinion of the Agency is that the 2 notified draft rules and 4 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)³.

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

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

2. Legal Background

Article 25 (2) and (3) of Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/20041 (Agency Regulation) sets out the following:

"2. Where, after the examination referred to in paragraph 1, the Agency considers that the draft national rules enable the essential requirements for railway interoperability to be fulfilled, the CSMs and TSIs in force to be respected and the CSTs to be achieved, and that they would not result in arbitrary discrimination or a disguised restriction on rail transport operations between Member States, the Agency shall inform the Commission and the Member State concerned of its positive assessment. In that case, the Commission may validate the rules in the IT system referred to in Article 27.

Where the Agency within 2 months of receipt of the draft national rule or within the extended time period agreed in accordance with paragraph 1 does not inform the Commission and the Member

¹ See rules [CH-SA-1513-2-D](#) and [CH-SA-1516-2-D](#) in SRD.

² See rules [CH-SA-1060-1-A](#), [CH-SA-1511-1-A](#), [CH-SA-1512-1-A](#) and [CH-SA-1515-1-A](#) in SRD.

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

State concerned of its assessment, the Member State may proceed with the introduction of the rule without prejudice to Article 26.

3. 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 the reasons why the national rule or rules in question should not enter into force and/or be applied; and

(b) inform the Commission of its negative assessment, stating the reasons why the national rule or rules in question should not enter into force and/or be applied...”

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 Articles 25 (3) and 26 (3) of the Regulation (EU) 2016/796.

The analysis and the Annex to this opinion show that the rules are not compliant with EU requirements

The applicable EU legislation which is relevant from the Agency’s point of view⁴for this opinion is:

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: • Commission Implementing Regulation (EU) 2020/778 of 12 June 2020 • Commission Implementing Regulation (EU) 2021/2238 of 15 December 2021 • Commission Implementing Regulation (EU) 2023/1693 of 10 August 2023 • 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,

⁴ The European Commission to assess applicability of the identified legislation in Switzerland.

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,

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.

3. Analysis

A detailed review of the rules in SRD, the Agency's assessment and the Swiss response is set out in the attached Annex.

Rule ID	Rule content and reference in English	Assessment result	Member State's (MS) position on ERA's negative assessment	MS's justification	ERA's final opinion in English
CH-SA-1060-1-A	The following legal document is notified by the Member State: The Member State notified Articles R 300.3. 1.2 of Swiss Operational Prescriptions (OP) (R 300.1-.15) 1st July 2024 SR 742.173.001 on the requirement that <i>Safety must never be dependent on establishing a communication link</i>. The rule relates to communication requirements.	This rule cannot be accepted as it is not in line with the communication elements in Appendix C of the TSI OPE.	MS rejected ERA's negative assessment	Since operational procedures (including at the ISB and EVU levels) have been based on this principle for over 25 years, the risk of deleting these provisions is too high for Switzerland (at this point in time).	TSI OPE sets out technical specifications for, amongst other elements, communication requirements. This is an essential requirement specific to operation and traffic management. Furthermore requirement 5.1.5 of Regulation 2018/762 Annexes 1 and 2 stipulates the need for procedures on the control of information and communication for the safety of operational activities. Staff must be advised of the details of any specific conditions of travel, including relevant changes which may result in a hazard, temporary or permanent operational restrictions. Establishing a communication link (by whatever form) is the only way that this information can be provided to staff.
CH-SA-1511-1-A	The following legal document is notified by the Member State: The Member State notified Articles R 300.3 4.1 / 4.2.1/2/3 / 4.3 / 6.2.1 / 7.2 of Swiss Operational Prescriptions (OP) (R 300.1-.15) 1st July 2024 SR 742.173.001 <i>on the procedures for transmission according to the National Guidelines</i>. The rule relates to communication requirements.	This rule cannot be accepted as it is not in line with the communication elements in Appendix C of TSI OPE.	MS rejected ERA's negative assessment	This procedure is practically ingrained in the DNA of Swiss railway personnel and should not be abolished without a replacement arrangement, such as one at the international level. The risk of misunderstandings and resulting incidents is too high.	The format and communication requirements of TSI OPE have been enshrined in the EU legislation since Decisions 2002/734 (HS OPE TSI) and 2006/920 (CR OPE TSI). There are inconsistencies between the Swiss notified rule and the current TSI OPE which will affect the effective implementation of interoperability and cross border operation. The development of effective interoperable communication is crucial to the implementation of digitisation of railway information and instructions. This issue was raised at a TSI OPE meeting 21/22 May 2025 as change request 692 and following discussions on the proposal, it was not accepted by the TSI OPE WP members.
CH-SA-1512-1-A	The following legal document is notified by the Member State: The Member State notified Articles R 300.4 1/2/3/4/5/6 of Swiss Operational Prescriptions (OP) (R 300.1-.15) 1st July 2024 SR 742.173.001 which <i>Regulates the entire procedures of shunting, including preparation, execution and</i>	This rule cannot be accepted as it relates to the operational use of vehicles including braking which is not accepted under Appendix I the TSI OPE.	MS rejected ERA's negative assessment	The provisions in R. 300.4 contain only specifications for shunting operations (Annex I, 1 (a)), and there are no provisions related to DAC or ERTMS. The provisions for braking apply exclusively to shunting operations.	Whilst shunting operations can be accepted as a national rule, ERA remains of the opinion that this specific rule cannot be accepted. The main reasons being that it sets out specific roles and responsibilities which should be for the SMS CMS of the RU. Although CH confirmed the rules is limited to shunting operations; in the opinion of the Agency there also seems to be some cross over with normal operations. For example, paragraph 4.1.1 states manoeuvring on an open track should operate as a train.

Rule ID	Rule content and reference in English	Assessment result	Member State's (MS) position on ERA's negative assessment	MS's justification	ERA's final opinion in English
	<i>follow-up as well as rules of behaviour for the personnel on shunting duty.</i> The rule relates to shunting operations			The specifications for train preparation (including braking) are contained in R 300.5 and these specifications are not part of this NR. In Switzerland's view, the scope of application is clearly defined for shunting operations; trains are not covered here. This NR is of crucial importance for rail operations in Switzerland.	Therefore other aspects which relate to normal train operation (braking, train preparation etc) which should be for the RUs SMS, risk assessment and related operational rules will instead need to comply with the requirements in the national rule. Because of this, it is difficult for the Agency to accept this as a national rule.
CH-SA-1515-1-A	The following legal document is notified by the Member State: The Member State notified Articles R 300.6 4.2 / 4.3 of Swiss Operational Prescriptions (OP) (R 300.1-.15) 1st July 2024 SR 742.173.001 on Train <i>traffic operations within the framework of the national signalling system (in the event of speed restrictions, in particular slow speed limits sections)</i> The rule relates to the signalling system	ERA accepted Rule 4.2 as speeds in degraded mode but not rule 4.3 which is for the RU SMS. CH was advised to renotify just rule 4.2	MS rejected ERA's negative assessment	We understand that the provisions of R 300.6, 4.2 have been positively assessed by the ERA and may be considered a valid NR. The rejected part of the NR, i.e., 4.3, is, in our view, a situation similar to 4.2, even though it does not involve a speed limit.	Rule R 300.6 4.3 relates to the operational use of pantographs which is for the RUs SMS and operational rule book. Permitted signalling rules under Appendix I of TSI OPE should relate to information on the signalling system which the RU can use to develop the information for the driver. It should not cover instructions from the IM to the RU and driver.
CH-SA-1516-1-D	The following legal document is notified by the Member State: The Member State notified Articles R 300.6 5.1 of Swiss Operational Prescriptions (OP) (R 300.1-.15) 1st July 2024 SR 742.173.001 on <i>Entry to a railway station without level access to platforms</i> The rule relates to a local operational rule	It is not clear that this is only a local operational rule. It should set out the specific stations that it relates to. Please identify the stations that this rule relates to and renotify, and it will be accepted.	MS rejected ERA's negative assessment	Since this affects only a very small number of specific stations, it is a local operating procedure. However, we will need to provide the list of affected stations at a later date.	The Commission have in the past stated that any local operational rule should be specific and give precise locations so that the RU can decide whether to use alternative routes. It is unclear how much of the network this particular rule covers. Local operational rules should be geographically bounded. If the boundary is unclear, the rule risks becoming de facto national or network-wide and therefore impacts on the interoperability of the rule.

Rule ID	Rule content and reference in English	Assessment result	Member State's (MS) position on ERA's negative assessment	MS's justification	ERA's final opinion in English
CH-SA-1513-2-D	The following legal document is notified by the Member State: The Member State notified Articles R 300.4 Anl. 1 / 1.2 of Swiss Operational Prescriptions (OP) (R 300.1-.15) 1st July 2024 SR 742.173.001 on <i>track curves and counter-curves with small radii</i> The rule relates to a local operational rule	It is not clear that this is only a local operational rule. It should set out the specific track that it relates to. Please identify the areas/specific routes that this rule relates to and renotify, and it will be accepted.	MS rejected ERA's negative assessment	These specifications regarding track radii are required exclusively for shunting operations (Annex I, 1 (a)). This provision ensures that no derailments occur in connection with Swiss Specific Case TSI INF-014.	During discussions with CH, it was proposed to renotify this as a local operational rule. However, it is unclear how much of the network this particular rule covers. Local operational rules should be geographically bounded. If the boundary is unclear, the rule risks becoming de facto national or network-wide and therefore impacts on the interoperability of the rule. The link to shunting was not mentioned during the discussions. Nevertheless, the same Agency opinion as rule CH-SA-1512-1-A is relevant to this rule. Furthermore, TSI INF-014 is a Swiss Specific Case included in the Infrastructure TSI (TSI INF). This allows Switzerland to maintain national requirements for track gauge, clearances, and certain infrastructure parameters that differ from the standard EU TSI values. It is then for the RU to take this information and consider its application in their operational risk assessment and then ensure that the operational route and rule books cover this aspect for the safe operation of the train.

4. The opinion

The Agency's opinion is that the provisions in the two (2) draft rules and four (4) adopted rules of Switzerland are not compliant with relevant EU legal requirements in the field of safety, according to Article 8 Directive (EU) 2016/798 on railway safety, as described in part 3 Analysis of this opinion.

For this reason, in accordance with Articles 25 (3) and 26 (3) Regulation (EU) 2016/796, the Agency with this opinion confirms its negative assessment.

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

Valenciennes,

Oana GHERGHINESCU
Executive Director

Enclosure : Annex 1

ANNEX 1

Impact Note

Regarding two (2) draft national rules and four (4) adopted national rules by Switzerland setting requirements on several 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 rules in object
In line with articles 25 (3) and 26 (3) of Regulation (EU) 2016/796, this opinion covers the examination of four (4) adopted national rules and two (2) draft rules notified by Switzerland in the Single Rules Database (SRD) on 23 September 2024. In total Switzerland notified on that date Switzerland notified a total of twenty-three (23) rules. Due to the high workload, the Agency asked Switzerland if the deadline for the assessment could be extended by six months until 23 May 2025, which was agreed by Switzerland. 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 Switzerland conflict with already harmonised EU legislation.
1.2. Analysis performed
The Agency shared its negative assessment with Switzerland on the 23 May 2025 via SRD. Switzerland requested an extension until 30 August 2025 to consider the Agency's assessment. Detailed discussions took place between the Swiss NSA BAV and the Agency on 30 July 2025 and 13 May 2026. Extensions were given in order for NSA BAV to consider the Agency's assessment, the last until 30 June 2026 for Switzerland to finalise their responses to the rules that the Agency would not accept. Out of the twenty-three (23) rules, six (6) draft rules and five (5) adopted rules were accepted by the Agency (2 of these have now been subsequently withdrawn) and six (6) rules are now subject to this technical opinion: two (2) draft rules and four (4) adopted 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 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 4 notified adopted and 2 draft 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 four (4) adopted rules and two (2) notified draft national rules of Switzerland 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 Switzerland. In particular, the rules negatively assessed are not in line with requirements and/or procedures to be addressed in the companies' Safety Management System and the operational rule book. 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 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)	☒	Member States (MS)	☒
Infrastructure managers (IM)	☒	Third Countries	☐
Manufacturers	☐	National safety authorities (NSA)	☒
Keepers	☐	European Commission (EC)	☒
Entity Managing the Change (EMC)	☐	European Union Agency for Railways (ERA)	☒
Notified Bodies (NoBo)	☐	Shippers	☐
Associations	☐	Other (Please specify) ...	☐

2. Preferred option**2.1. Recommendation**

No alternative options are to be assessed and it is confirmed a negative assessment of the four adopted national rules and the two draft rules notified draft rules of Switzerland.