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## Document Review – Comment Sheet

*Document commented: Common Safety Methods on the assessment of Safety Level and Safety Performance of railway operators at national and Union level (CSM ASLP)*

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<i>Deadline for submitting comments:</i>	17 March 2021

	<i>Reviewer 1</i>	<i>Reviewer 2</i>	<i>Reviewer 3</i>	<i>Reviewer 4</i>	<i>Reviewer 5</i>	<i>Reviewer 6</i>
<i>Date:</i>	Until 04.03.2021	Until 04.03.2021	Until 04.03.2021	Until 04.03.2021	Until 04.03.2021	Until 04.03.2021
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*Document History*

<i>Version</i>	<i>Date</i>	<i>Comments</i>
<i>0</i>	Until 04.03.2021	Comments provided by the CER members
<i>0.1</i>	04.03.2021	Compilation of all CER comments by AV
<i>1.0</i>	08.03.2021	Final CER comments (after SSMG endorsement) by EW

*Conventions:*

<i>Type of Comment</i>		<i>Reply by requestor</i>	
<i>G</i>	General	<i>R</i>	Rejected
<i>M</i>	Mistake	<i>A</i>	Accepted
<i>U</i>	Understanding	<i>D</i>	Discussion necessary
<i>P</i>	Proposal	<i>NWC</i>	Noted without need to change

*Review Comments <if necessary add extra lines in the table>*

<i>N°</i>	<i>Reference (e.g. Art, §)</i>	<i>Type</i>	<i>Reviewer</i>	<i>Reviewer's Comments, Questions, Proposals</i>	<i>Reply</i>	<i>Proposal for the correction or justification for the rejection</i>
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1	Entire Document	G	CER	<p>We agree that the draft CSM ASLP follows an important goal with regard to continuously improving railway safety in Europe. However, we judge the current approach to be too constringent for railway operators and discriminate rail against other transport modes (in particular road). We fear that the approach to assess the safety level and safety performance will increase costs without assurance of a positive effect on the safety level.</p> <p>We are worried that the large range of new obligations will overstrain railway operators. They will need time to prepare and adapt to the new obligations. The application of the CSM ASLP is evolving through 'gateways' (to be further defined), see CER /EIM position paper on the CSM ASLP implementation.</p> <p>The final draft CSM ASLP covers many issues which will have an impact on the current practice of railway operators and on other stakeholders. We have identified the following critical aspects, please refer to details in the Review Comments' Section:</p> <p>In general:</p> <ul style="list-style-type: none"> <li>• We see no convincing arguments that the approach will help railway operators to increase their safety level. We miss evidence that the collection of data at Union level instead at national level (with reportings towards the</li> </ul>	NWC	<p>The Big Picture document explains many possible added value of putting in place the elements required by the Mandate.</p> <p>The CSM ASLP proposal is covering these elements in a cost effective manner, as shown by the IA.</p> <p>Here it is questionable what is perceived as new obligations, because mainly the CSM ASLP is requiring formatting and sharing of information in an harmonised way. However it does not introduce many more obligation, as you indicate.</p> <p>CSM MO and CSM SMS already require a large part of monitoring and analysis of occurrence scenarios, but not in an harmonised way.</p> <p>The sharing of harmonised datasets is a prerequisite to enhance collective learning. Collective learning can be understood at every levels, within a layer (operator, national or EU) or across those layers.</p>
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				<p>NSAs) will be more effective to reach this objective.</p> <ul style="list-style-type: none"> <li>• We miss a competent role of the NSAs. We request to make use of the established and proven procedures between NSAs and railway operators.</li> <li>• The process for requesting a review of reported data and information is not sufficiently clear, arbitrary use of the process has to be avoided.</li> <li>• Further clarification is needed how to establish the GoA as a group being representative for the stakeholders involved</li> <li>• More clarity is needed on how to align the Information Sharing System with the digital solutions already being in place today. Avoiding redundancy when reporting data and information.</li> </ul> <p>Regarding the assessment of Safety Level:</p> <ul style="list-style-type: none"> <li>• We fear that the approach requesting a huge set of detailed data on occurrences according to Annex I will</li> </ul>	<p>We do not see the reason to oppose what can be achieved at national level and at operator or EU level.</p> <p>The CSM ASLP does not change any role already set by railway legislation. It is not necessary to re-specify the NSAs role towards operators in the CSM ASLP. This is covered by the RSD and the CSM on Supervision.</p> <p>There is no arbitrary rule, on the contrary the sharing of data is traceable and checkable at any time thanks to the introduction of harmonisation and ISS.</p> <p>The GoA Working Arrangement (1<sup>st</sup> draft) has been published for discussion by the WP members.</p> <p>This also an objective clearly established by the CSM ASLP on which WP members have been invited to contribute. We note that we have received from CER and EIM besides the formal CSM consultation an information indicating that CER and EIM did not want to contribute to the ISS specifications for the moment.</p> <p>This perception is not correct, the level of extra requirement is low has operators are already obliged to investigate the causes of their occurrences. Thus the formatting and sharing of the elements is the main constraints brought by the CSM</p>
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				<p>cause a huge workload without having the benefit of increasing safety. We propose to start with using existing databases, mainly the UIC database currently in use by railway operators.</p> <ul style="list-style-type: none"> <li>• The benefit of collecting information on occurrence scenarios and related risk control measures is unclear and does not justify the huge effort to report the data.</li> <li>• We have a critical view of the sharing deadlines for the Simple Reporting SR and Detailed Reporting DR.</li> </ul> <p>Regarding the assessment of Safety Performance:</p> <ul style="list-style-type: none"> <li>• The process of the assessment of the safety performance, especially the self-estimation part cannot guarantee well based comparisons between different operators. We did not find convincing arguments that the assessment of safety performance at Union level will</li> </ul>	<p>and taken into account in the Impact Assessment. As you ask for non-arbitrary and traceable sharing of information, it is clear that only ERA can play the role of managing the ISS and the legal implementation of the CSM ASLP cannot be covered by the UIC database. However it is not forbidden that operators use the UIC database as ‘third party’ connected system using the ‘indirect channel’ allowed by the CSM.</p> <p>It is a help for better understanding the causes of accidents and to share relevant information between actors. Further elaboration is provided in the impact assessment (incl. a new annex on collective learning processes introduced in the final report).</p> <p>The WP member have confirmed that the proposed deadlines are practicable, taking into account the experience of NSAs and Operators.</p> <p>The Safety Performance is mainly aiming at supporting the operators for continuously improve the control of their risks and fair safety performance assessment.</p>
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				<p>be more effective than an assessment at national level.</p> <ul style="list-style-type: none"> <li>We have a critical view of publishing results of the safety performance among all registered users of the ISS.</li> </ul>		<p>There is no element indicating that the proposed method cannot be used for comparison.</p> <p>However we note that the current situation in EU is very diverse in EU MS, sometime with no performance supervision, and thus operators cannot be assessed at national level in a non-discriminatory manner without the CSM ASLP.</p> <p>Your understanding is not corresponding to our proposal. Assessments are only shared with supervising authorities and ERA. This will ensure transparent and fair assessments of every operators but at the same time it protects operators from each other.</p>
2	General/ Whereas	G	CER	Some of the Whereas-Points are not understandable e.g. 15, 25, 26, etc.	NWC	
3	Recitals (25) / general	G	CER	<p><b>Safety culture</b></p> <p>It is positive that the document emphasises the importance of a just safety culture. What's less clear from the document is how this will be achieved across all operators, or how it will be assessed that safety cultures are sufficiently mature to introduce the more extensive reporting requirements.</p>	NWC	<p>It is not the purpose of the CSM to assess safety culture.</p> <p>However, it is expected that most mature operators will have the best assessments and implementation records, as they will take the opportunity to use the shared data and information of the CSM ASLP for contributing to their own improvements and to the collective effort of the GoA.</p>

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4	Whereas 15	U/P	CER	<p>Various categories of staff working or otherwise engaged in the rail system may witness events which should be considered....</p> <p>“otherwise engaged” could mean customers, level crossing users etc. – How should an operator encourage these group of persons to report?</p> <p>Proposal – consider “Staff” only.</p>	R	The proposal is to allow the possibility of persons working in the railway system and refer to this with a broader term. ‘staff working or otherwise engaged’ means persons having a relationship with a contract in a way that there is a hierarchical link. It can be employees of the organization or working under a contract for the organization = ‘otherwise engaged’.
5	Art. 1	G	CER	<p>We welcome the purpose of the draft CSM ASLP (see whereas 3) to provide assistance to the railway undertakings and infrastructure managers for improving their safety management and, in particular to ensure that they can achieve their business objectives in a continuously improved safe manner.</p> <p>We agree that the objective of the sharing of data and information should be the prevention of railway accidents and incidents (see whereas 23)</p>	NWC	Noted

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6	Art .1	P	CER	<p>However, we judge the current approach to be too constringent for railway operators making it impossible for them to incorporate their own methods and experience achieved so far. We see no convincing arguments that the approach will ensure that railway operators can increase their safety level.</p> <p>We propose a more flexible approach by means of generic guidelines for safety level and safety performance giving the railway operators sufficient flexibility to further develop their own methods.</p>	R	<p>Your proposal is not in line with the mandate requiring the setting of EU Harmonised rules, not the setting of guidelines.</p> <p><u>At least, the CSM supports the implementation of the existing following requirements</u>, in an harmonised manner, and enables sharing of information with other actors on the same elements of information for collective learning.</p> <ul style="list-style-type: none"> <li>- reporting of type A events above the specified threshold corresponds to the events reported via CSI (this also requires an appreciation of consequences to check the threshold) - RSD, Art. 5,</li> <li>- the systematic investigation of accidents and incidents to determine their causes is a requirement for operators as part of their SMS - CSM SMS, Annex I/II, Art. 7.1.1 (a)</li> <li>- the investigation of serious accidents is a legal obligation for NIBs - RSD, Art. 20, 1,</li> <li>- reporting of type A events below the proposed threshold corresponds to a legal requirement at national level in several Member States,</li> <li>- to check the correct application and the effectiveness of all the processes and procedures in the management system, including the technical, operational and organisational risk control measures is already required from operators - CSM MO, Art. 2 (a),</li> </ul> <p>...</p>

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7	Art .1	P	CER	We fear that the approach followed by CSM ASLP will increase costs for railway operators without having the required benefit on increasing the safety level.	NWC	At the working party discussion no convincing arguments were provided that the CSM would not be supportive to safety level improvements. The Agency gave a lot of example on the potential added values for operators (see also Big picture document) and collective learning opportunities. These elements were also considered further in the impact assessment.  The IA is positive for the proposed CSM option, thanks to the control of requested data and information to the minimum necessary to enable the assessments and collective learning requested by the mandate.  Please refer to this very detailed document.
8	Art. 1	G	CER	We are aware that an impact assessment was produced and that the sharing of data will be limited to a level where costs and benefit are in balance.  We recommend to add a specific statement in the 'whereas' Section expressing the commitment to ensure the balance of cost and benefit.	NWC	The whereas 5 already indicate clearly "provide the necessary system-wide data and information for <b>efficient</b> continuous improvements, taking into account technical and scientific progress"
9	Art 2	P	CER	The regulation should apply to all parties mentioned in Annex VI – Part B except to every natural person – only for registered parties, but NOT for natural persons (otherwise we will have a "Facebook or Twitter for railways" without the needed know how and competence to evaluate a given situation)	R	See comment 51.

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10.	Art 3	P	CER	All definitions described in the given CSI should be the same in this CSM – do not mix definitions with the same name but small deviations (misunderstanding is the logical consequence)	A	Taxonomy clearly indicate which event type exactly correspond to the current CSI
11	Art. 3, I & j	P	CER	A financial loss is not meaningful to categorise an event because the price level in Europe varies strongly.  We propose to use accident categories restricted to injuries and fatalities.	R	This is in contradiction with the use of RSD definition of seriousness / significance which includes also monetised damages
12	Art .3	P	CER	Cross reference to DIRECTIVE (EU) 2016/798 on railway safety missing for:  (i) serious consequence event (ii) significant consequence event  We propose to add the necessary cross references to DIRECTIVE (EU) 2016/798	NWC	The definitions used by the CSM are fully consistent with DIRECTIVE (EU) 2016/798 but they are simpler as they unbundle the type of event from the involved operation type and location.  The whole CSM is a secondary legislation of this Directive it is not needed to refer to it in each specific article.  The relationship with RSD definitions will be explain in a guide. At WP9 it was agreed that the best future direction should be to simplify the RSD definitions when revising the CSI/CST regime.

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13	Art. 4, § 1(a)	P	CER	<p>We fear that the approach requesting a huge set of detailed data on occurrences will immensely increase the workload for railway operators without having the expected benefit to increase the safety level.</p> <p>We propose to start with using existing databases, mainly the UIC database currently in use by railway operators and to stepwise develop the procedure from there.</p>	NWC	The safety level assessment builds on 'simple reporting' data, which corresponds with current data requirements for CSI, anyway already reported by operators, with the aim to limit the workload.
14	Art. 4, § 1(b)	P	CER	<p>We understand that the safety-performance is derived based on self-estimation by operators and has to follow Annex II and Appendix B. However, the results of the self-estimation will be dependent on the railway operators' understanding and interpretation of Annex II and Appendix B.</p> <p>It must be demonstrated that the process of self-estimation is sufficiently defined by Appendix B in order to produce results which are comparable with each other. Supportive measures to reach this goal should be envisaged.</p>	A	Supportive documents such as guidance and training materials will be made available.

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15	Art. 4, § 1c	U	CER	It is not clear if occurrence scenarios and related risk control measures have to be reported in relation to occurrences that have taken place. Otherwise it is not clear under which prerequisites these elements have to be reported.	A	Re-drafted Article 4 will clarify this directly in the main part of the CSM.
16	Art. 4, § 1c	P	CER	We judge the effort required to collect and report occurrence scenarios and related risk control measures to be huge. The benefit of having the information is unclear.  Without convincing arguments we consider this obligation to report this data as not being sufficiently justified.	NWC	IA is positive and this is not a new requirement for operators to investigate occurrences (CSM SMS)

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17	Art. 4, § 2	P	CER	<p>It is unclear under which conditions safety authority, TDG competent authority and the Agency are entitled to request a review of reported data and information. There is a potential to request and use the information arbitrarily and to the disadvantage of railway operators.</p> <p>We recommend to define that only the respective NSA supervising the railway operator should have the right to request a review of reported data and information and that NSAs and the Agency collaborate on this subject.</p>	<p>A</p> <p>NWC</p>	<p>Amended Article 4.2 is clarified in this way to cover your comment:</p> <p><i>“Each national safety authority, TDG competent authority and the Agency shall be entitled, in duly justified cases, to request the reporting operators to perform a review of reported data and information, provided that the requested operator and the concerned data and information falls within the competence of the requesting entity.”</i></p> <p>This is not possible as in some EUMS the supervising of TDG operations is actually not implemented by the NSAs. Therefore it is preferred to keep a more flexible but controlled process, also in line with TDG Directive.</p>



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19.	Art 5	U	CER	What is the outcome of the estimation of the achieved safety level and the achieved safety performance? What are the consequences? Will ERA require safety measures if the level/performance is not OK?	NWC	<p>The CSM ASLP does not change the roles and responsibilities established by the other EU legislation pieces.</p> <p>In first instance, we consider that the benefit (outcomes) for the companies themselves is to identify where they can actually continuously improve their SMS and also to identify, in general, the level of their performance in comparison with the average performance level of similar operators.</p> <p>The CSM ASLP does not provide extra role the Agency is already entitled to exercise, by the existing legislation.</p> <p>In the same spirit, the CSM ASLP does not change the role of the NSAs that is to supervise the operators and, when necessary require improvement of operator's weaknesses.</p> <p>It is thus considered that potential consequences of weak performance need to be considered first by the NSAs within the supervision regime. The harmonised assessments of SL and SP are one input supporting to the implementation of the supervision activities.</p> <p>Cooperation between NSAs and the Agency is also unchanged by the CSM.</p>

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20	Art 5	P	CER	Point 5: ... ERA have to use the technical support reported in Appendix C ... to understand the method it is necessary to have the content in Appendix C	NWC	<p>Annex IV and Annex V provide the general conditions with which the method needs to comply. Within these boundaries, Appendix C shall be further development by Subgroup C.</p> <p>Also, two well-defined methods have been discussed at the working party for estimating SL.</p> <p>These two methods have been used for a long time by some WP members with success for a long time period.</p> <p>Appendix C will be finalised on this basis in due time before its implementation is required (2<sup>nd</sup> phase).</p> <p>The appendix will be adopted through the same legal process as the present CSM recommendation.</p>
21	Art 5 para 4 / general	G	CER	<p><b>Resource requirements</b></p> <p>The agency will require significant resource to manage the system, the quality of information in it, assess safety levels, manage the group of analysts and act on the identified improvement needs. Is this secured?</p>	NWC	<p>This aspect is carefully considered by the IA, including internal ERA resources.</p>

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22	Art. 5, § 4	P	CER	<p>We doubt that the collection of data exchanged at Union Level will be a viable basis to support railway operators in improving their safety level and safety performance.</p> <p>We miss a competent role of the NSA. At present there are established and proven procedures between NSAs and railway operators, such as the issuing of authorisations and audits by the NSA, to ensure a sufficient safety level.</p> <p>We would expect NSAs to play a key role in the interaction between railway operators and the Agency.</p>	NWC	<p>The key role you are asking for is established by the Group of Analysts where both Operators and the NSAs are represented.</p> <p>As a result the GoA will issue proposals to the Agency which can then have an impact on EU legislation and safety improvements in general.</p> <p>NSAs role is not changed by the CSM ASLP.</p> <p>This is already the case and will be also supported by the CSM ASLP processes.</p>
23	Art. 5, § 4	U	CER	<p>In our experience the operating conditions and prerequisites vary between railway operators. We doubt that although data is processed at a detailed level the resulting safety levels will allow meaningful comparisons of safety levels between operators.</p>	NWC	<p>The harmonised process established by the CSM are practicable, have been experienced positively in some countries as presented in the WP meetings, and there is no reason and not elements of proof that the dis-harmonised current state of play in EU MS can deliver comparable results.</p>
24	Art. 5, § 4	U	CER	<p>There is no statement on the consequences for operators whose safety level or safety performance is below average. It is not clear if they will have to face sanctions.</p>	NWC	<p>This is not the aim of the CSM ASLP, as this situation is already covered by Certificate and Authorisation assessments.</p> <p>CSM ASLP does not duplicate other legislation.</p>

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25	Art. 6, § 1	P	CER	<p>The Group of Analysts GoA will play a powerful role in the application of the CSM ASLP. In our opinion it should be ensured that the GoA is widely accepted among the involved stakeholders.</p> <p>We propose to add a statement of intention to establish the GoA as a group being representative for the stakeholders, notably also the Sector Organisations, involved. Furthermore a procedure for escalation is needed for the contingency when one or several stakeholders disagree with the work (or parts of it) of the GoA.</p>	NWC	<p>The Group of Analysts is a Working Party of the Agency as defined in Article 5 of Regulation 2016/796. This article states:</p> <p>“The working parties shall be composed of: — representatives nominated by the competent national authorities to participate in the working parties, — professionals from the railway sector selected by the Agency from the list referred to in paragraph</p> <p>The Agency shall ensure adequate representation of those sectors of the industry and of those users which could be affected by measures the Commission may propose on the basis of the recommendations addressed to it by the Agency. The Agency shall strive, where possible, for a balanced geographical representation.”.</p> <p>The Working Arrangements will integrate the required elements, in addition to the ‘escalation’ to Agency Opinion and Recommendations already integrated in the CSM text.</p>
26.	Art 6	U	CER	<p>Who are the members of this group of analysts? What is the outcome of this group? What are their targets?</p> <p>ERA will publish non-binding information. How can the system be improved by non-binding information?</p>	NWC	See reply above on comment 25

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27.	Art. 6 Support to collective learning (pag. 8)  Art. 11 Entry into force and application (pag.11)	G	CER	The expected skills, the work operating rules and the criteria for identifying the “Group of Analysts” need to be described.	NWC	The functioning and the rules of procedure of the Group of Analysts will be described in the Working Arrangements which will be discussed with the current Working Party. This document will contain the competencies, selection process, etc..

28.	Art. 7 Information sharing system (pag. 9)	G	CER	<p>The correct and complete application of this CSM is linked to the use and operation of the Information Sharing System (ISS).</p> <p>This System is not yet available, nor is it possible to evaluate the relevant Technical Support Documentation: Appendix D is empty.</p> <p>It is useful and necessary to create a database for collection and sharing of data and information related to safety events between all RUs and stakeholders.</p> <p>In order to take full advantage of this information, collected data should be comparable, so that railway operators can use them fruitfully in their assessments and analysis.</p> <p>Regarding the Full Impact Assessment, it should be noted that there are still doubts about the limitations relating to the access, management and use of safety data.</p> <p>In addition, there are still many uncertainties related to the impact assessment of the CSM ASLP, mostly regarding cost-benefit analysis by the interested parties.</p>	NWC	<p>The CSM proposal is provided the necessary elements for the further detailed design of the ISS.</p> <p>The final CSM proposal will be restructured and annex VI is already covering a lot of high level elements for the ISS that will be transferred into Appendix D. This appendix will be completed in due time, before the phase of mandatory implementation of the ISS is starting.</p> <p>The CSM ASLP introduce the necessary harmonisation level for data being comparable between actors, which is not addressed currently by national approach within the EU.</p> <p>The CSM ASLP does not implement restriction of access to data and information other than the one required by other EU legislation on the protection of personal and specific interest data and the legislation of transparency of information retained by the Agency.</p> <p>The IA take into account the sharable data.</p>
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29.	Art 7	P	CER	<p>In many Countries the companies report their accidents and incidents to the NSA according to a given requirement by the NSA.</p> <p>NSA's should adapt their national requirements according to the requirements from this CSM and ERA will get the data directly from the MS – like the CSI now.</p> <p>It would be an easy way to collect data, to avoid double reporting and to keep all relevant parties (first of all the responsible NSA) informed</p>	<p>NWC</p> <p>D</p> <p>NWC</p>	<p>This is made possible with the ISS using the 'indirect' channel.</p> <p>While it would be a further harmonisation level, it is not the CSM ASLP aim to set or remove national rules. This is governed by the RSD. Possible discussions and future simplifications will be possible with progressive harmonisation of national element required in addition to the CSM requirements.</p> <p>This is made possible with the ISS using the 'indirect' channel. CSM ASLP does not imposed double reporting.</p>

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30	Art. 7, § 4	P	CER	<p>We understand that the common digital interface to be used as the Information Sharing System is not further specified in the Regulation.</p> <p>It must be ensured that the Information Sharing System will account for the tools being in use today. Notably, the role of the ERA Safety Alert Tool has to be clarified in this context.</p> <p>It has to be avoided that railway operators are requested to report the same information several times due to the missing harmonization of IT tools.</p>	NWC	<p>The CSM establish the process to further specify the ISS, taking into account GoA proposal. See also comment 32</p> <p>There will be no double reporting btw SAIT and future ISS.</p> <p>Linked data approach adopted by ERA Management Board will apply.</p> <p>The connection with other Agency's systems is clearly indicated in the ANNEX VI part D process diagram.</p>
31	Art. 7, § 14	G	CER	<p>We are satisfied to note that precautions have been set in Annex VI to ensure confidentiality in the sharing of data.</p>	NWC	<p>We note this comment in combination with comment 28.</p>

<i>N°</i>	<i>Reference (e.g. Art, §)</i>	<i>Type</i>	<i>Reviewer</i>	<i>Reviewer's Comments, Questions, Proposals</i>	<i>Reply</i>	<i>Proposal for the correction or justification for the rejection</i>
32.	Art. 9 Technical Support (pag. 10)	G	CER	The Technical Support Documentation is still incomplete: Appendices C and D, relating respectively to the evaluation of safety levels / performances and to the ISS, are empty.	NWC	<p>The restructuration of the final CSM text lead to integrate annexes IV and V in Appendix C (principle requirements for the assessments). Only detailed assessment implementation is missing (future Appendix C part C) but it is already framed by the CSM text.</p> <p>The restructuration of the final CSM text lead to integrate annexes VI in Appendix D (principle requirements for the ISS and overall management of data). Only detailed description of the ISS business processes are missing (possible future complement to Appendix D) but they are already framed the CSM text.</p> <p>The Appendices shall be further developed by the concerned subgroups and amended in accordance with Article 9(3)(c).</p>

N°	Reference (e.g. Art, §)	Type	Reviewer	Reviewer's Comments, Questions, Proposals	Reply	Proposal for the correction or justification for the rejection
33.	Article 11(3)	M	CER	<p><b>Entry into force and application</b></p> <p>The text says “<i>This Regulation shall apply from [date] with the exclusion of Article 4(1)(b) and Article 5, which shall not be implemented before the date referred to in Article 11(10).</i>” However, there is no Article 11 (10).</p> <p><b>Staged implementation</b></p> <p>A staged implementation seems a sensible approach. The first stage, cat A events with serious consequences, seems like a good place to start. Further stages should then follow. A next step could be Cat A events with significant consequences. And this could be followed by a stage gate review to determine whether further extension is beneficial (see comment 36).</p>	<p>A</p> <p>A</p> <p>NWC</p>	<p>Corrected with the redrafting of article 11, introducing phased implementation conditioned by ISS availability.</p> <p>Re-drafted article 11 will introduce more phases and they will be conditioned by practicability criteria.</p> <p>The stage gate review is actually covered by the possibility for the GoA to propose further improvement of the CSM that must be cost-effective.</p>
34	Art. 11, § 3	G	CER	Sensible transition periods have to be set that will allow railway operators sufficient preparation time to comply with the new requirements. We therefore fully agree that the Regulation will first apply with the exclusion of Article 4(1)(b) and Article 5.	NWC	Noted

<i>N°</i>	<i>Reference (e.g. Art, §)</i>	<i>Type</i>	<i>Reviewer</i>	<i>Reviewer's Comments, Questions, Proposals</i>	<i>Reply</i>	<i>Proposal for the correction or justification for the rejection</i>
35	Art. 11, § 3	U	CER	<p>We cannot find Article 11(10) as mentioned in the text.</p> <p>Please specify the date when Article 4(1)(b) and Article 5 will become active.</p>	A	Please see comment 33.
36	Annex 1	G	CER	<p><b>Reporting scope</b></p> <p>The draft regulation seems to imply that the scope of mandatory reporting extends significantly beyond the current scope of CSIs – for example, many of the precursor events (Category B in Annex I Part B). Even though these are only subject to simple reporting, it will impose a significant burden on operators.</p> <p>However, the Impact Assessment proposes a more pragmatic approach of limiting the scope to Cat A significant consequence events and additional selected events for smart reporting. This seems sensible and in line with the emerging consensus in earlier discussions on the new CSM. It would be a positive development, which would improve CSI data quality and enable better learning from a richer dataset.</p> <p>Extending the scope beyond CSIs does not seem to be currently justified and the conclusion of the Impact Assessment does not seem to be reflected in the draft regulation.</p>	NWC	<p>This may be a perception but the CSM does not extend what is already required by the EU legislation in those domains.</p> <p>Please see comment 6.</p> <p>Smart reporting is included in the current proposal.</p> <p>This is justified by already existing requirements of the CSM SMS and the request of the mandate to share all possible data and information between actors to support their decision-making roles.</p>

<i>N°</i>	<i>Reference (e.g. Art, §)</i>	<i>Type</i>	<i>Reviewer</i>	<i>Reviewer's Comments, Questions, Proposals</i>	<i>Reply</i>	<i>Proposal for the correction or justification for the rejection</i>
37	Annex I, General Part, 3.1.2	P	CER	<p>In the event of the Simple Reporting SR a sharing deadline of 72 hrs after the occurrence of a category A event is requested in the draft regulation.</p> <p>We would like to stress that an operator concerned will need the first few days after the event for handling the exceptional situation.</p> <p>We propose to set the sharing deadline to 5 working days.</p>	D	<p>To our understanding every days of a week is a working day for the railway sector.</p> <p>We propose to discuss the potential extension from 3 to 5 days at the WP 9 or ultimately at RISC.</p> <p>However the WP meeting discussions have indicated that from experience, in most of the case 4 days are sufficient.</p>
38.	Annex I Gen Part 3.2.2	P	CER	<p>Sharing deadline should be extended. For category A events – time of occurrence + 72 hours from Monday to Friday and for the category other events end of reporting period + 10 days (if there is an event at the last day of a period the time is too short)</p> <p>There should be also the possibility to extend the time for some events. Sometimes it is not possible to fix everything in 1 month</p>	NWC	<p>The final validation of reporting can be made with ‘updates’ until 3 months after the first simple reporting.</p> <p>From this perspective, there is no reason to give more time to the last occurrence of a reporting period. Eventually to be aligned with previous discussion.</p>
39.	Annex I Gen Part 5.	P	CER	<p>Every event, all parameters, values, causes, contributing factors, ... should have a clear definition (that everybody will understand the same) and a unique ID-number (then every report is readable in all European languages – given by an automatic translation from codes to the language(s))</p>	NWC	<p>This will be provided by the ISS, including ID-number and language flexibility.</p> <p>GoA can support way forward concrete ISS proposals in accordance with the CSM.</p>

N°	Reference (e.g. Art, §)	Type	Reviewer	Reviewer's Comments, Questions, Proposals	Reply	Proposal for the correction or justification for the rejection
40	Annex I Gen Part 5.	G/P	CER	<p>Many details are required for detailed reporting. We can not generate these from our systems. By reporting on the type B and C events this becomes problematic. We also wonder whether this detailed information is necessary to achieve the goal of collective learning between Member States.</p> <p><b>Proposal</b></p> <p>Consider whether this degree of detail is necessary to be able to collectively learn from incidents and near misses. Start collecting type A events. If there is sufficient added value for member states to gain from this, then take the following steps towards B and C events</p>	NWC	<p>The systematic investigation of accidents and incidents to determine their causes is a requirement for operators as part of their SMS - CSM SMS, Annex I/II, Art. 7.1.1 (a)</p> <p>It is therefore an assistance provided to operators to have an harmonised structuration of this information, as provided by the CSM ASLP.</p> <p>The redrafted Article 11 is introducing conditional phasing, including a review of the proposals made by the GoA.</p> <p>In the first implementation phase, Cat B and C are only reported for a very limited number of serious occurrences with SR and ROS reporting's.</p> <p>The next phases are limited to significant events and amendments of the CSM may be proposed by GoA, if needed.</p> <p>Reporting of Cat B and C events alone (not linked to Cat A event) is only proposed on voluntary basis.</p>
41	Annex I, General Part, 5.2.2	P	CER	<p>A sharing deadline of 2 months is foreseen in the case of a detailed report.</p> <p>From our experience it is not possible in every case to complete the event analysis during this period. We propose to allow for longer deadlines if it can be justified by the operator.</p>	NWC	<p>It was clarified at the WP discussion that updates and corrections of reported data can be exercised at any time until the NIB delivers its investigation report or within a 1 year deadline.</p> <p>Earliest date applicable.</p> <p>This is supported in general by Article 7.11 of the CSM.</p>

<i>N°</i>	<i>Reference (e.g. Art, §)</i>	<i>Type</i>	<i>Reviewer</i>	<i>Reviewer's Comments, Questions, Proposals</i>	<i>Reply</i>	<i>Proposal for the correction or justification for the rejection</i>
42	Annex I - Part C (pag. 32)	U	CER	The list of the type of events and the related reporting methods applicable do not include the "Contributing factors" and the "SMS factors": should these aspects not be considered in the assessment of safety levels?	NWC	Contributing factors and Systemic factors uses the same definition as in Article 2 of Regulation (EU) 2020/573. This will be clarified in the final draft.  The GoA can further detail how and if possible to take these elements into account in SL assessments. However the methods that are practiced nowadays and that have been discussed in the working party do not take those elements into account currently.
43	Annex II, 1.4	U	CER	It is unclear if the maturity levels used here are in agreement with the ERA Safety Culture Model or the SMS maturity Model	NWC	Yes, there exists a consistency with the MMM, the safety culture model as well as with already existing requirements from the regulatory framework
44	Annex II, 2.3.	U	CER	Section 5 cannot be found in the Annex.	A	'section 5' corrected with ' Appendix B'
45	Annex II, 3.4.	U	CER	The procedure of self-estimation is not sufficiently explained: <ul style="list-style-type: none"> <li>• What is 'area P', 'area C'...?</li> <li>• What is meant by 'Element #' 1 to 21?</li> </ul> Suitable reference to Appendix B would make this much clearer.	A	Annex II 2.3 will be amended (area P,...) to be consistent with table in article 5 of appendix B.  Supportive documents will be provided
46.	Annex III Gen Part	U	CER	This part needs more explanation in a guide. With some examples it is easier to understand how to do it and what is the required outcome.	A	A guide will complement the CSM requirement, including examples.  This will be taken up by GoA Sub group A. This SG has as part of its objectives to produce supporting guidance to help users with the documentation of occurrence scenarios.

N°	Reference (e.g. Art, §)	Type	Reviewer	Reviewer's Comments, Questions, Proposals	Reply	Proposal for the correction or justification for the rejection
47.	Annex III Part A	U	CER	This part needs more explanation in a guide. With some examples it is easier to understand how to do it and what is the required outcome.	A	A guide will complement the CSM requirement, including examples.  This will be taken up by GoA Sub group A. This SG has as part of its objectives to produce supporting guidance to help users with the documentation of occurrence scenarios.
48.	Annex III (pag. 33-47)	G	CER	<p>The method explained in Annex III is very complex and not viable regarding the performance measurement method and occurrence scenario (link between events and risk control measures), especially for Operators of a certain size (big number of event registered year: in full application of the CSM, it will need to apply gates and - or for every event?).</p> <p>Although the purpose is clear, even here it cannot be realized except by having an advanced shared tools that are still not well defined considering the size and complexity of a representation of even a single part of the railway system. It is also obvious that the time needed to create such an environment is much longer than that reported in the impact analysis and that the returns of the advantages in terms of added value can be achieved in the long term.</p>	NWC	As discussed in the WP meetings, the future ISS will strongly help an easy reporting of the scenarios.

<i>N°</i>	<i>Reference (e.g. Art, §)</i>	<i>Type</i>	<i>Reviewer</i>	<i>Reviewer's Comments, Questions, Proposals</i>	<i>Reply</i>	<i>Proposal for the correction or justification for the rejection</i>
49.	Annex IV p.to 6 (pag. 51)  Annex V p.to. 5 (pag. 55)	G	CER	The method for calculating the safety levels and safety performance is not defined. The "Technical support documentation" is still incomplete: Appendix A and C are void.	NWC	(appendix C and D)  Two well-defined methods have been discussed at the working party for estimating SL and SP.  These two methods have been used for a long time period by some WP members with success.  Annex IV and V are framing the high level requirements for the assessments based on those discussions.  Appendix C will be finalised with integration of Annex IV and V respectively in Appendix C Par A and B resp. to allow better readability of the CSM.  On this basis in due time before its implementation is required (SL/SP assessment phase) the Appendix C will be complemented by detailed description of the assessments, framed by part A and B.  Appendix C part C will also be adopted through the same legal process as the present CSM recommendation.

<i>N°</i>	<i>Reference (e.g. Art, §)</i>	<i>Type</i>	<i>Reviewer</i>	<i>Reviewer's Comments, Questions, Proposals</i>	<i>Reply</i>	<i>Proposal for the correction or justification for the rejection</i>
50	Annex V, 7.	P	CER	<p>From our experience with comparisons of the safety level based on CSI the results are often not so clear and can easily be misinterpreted.</p> <p>We expect the same to happen with comparisons of the safety performance.</p> <p>We therefore recommend not so publish the results in the ISS, but only to use the results between the Agency, the operator and the respective NSA.</p>	<p>NWC</p> <p>NWC</p>	<p>A root cause of the problem you mention for the CSI may come from the very complex definitions used by the Directive, as discussed during WP9.</p> <p>There is no objective reason or relationship with the CSI regime which allow for your expectation assumption.</p> <p>Your proposal is already the one included in the CSM ASLP, in accordance with the sharing rule detailed in Annex VI. Namely, a single operator result will not be shared publically but only with the national authorities and ERA.</p> <p>Only national and EU aggregations (not single operator figure) will be accessible publically, as is the current situation for the CSIs.</p>
51.	Annex VI Part B 1.2	P	CER	<p>Delete in the section “other entities” the type “NPER” natural person</p> <p>It should be only possible for the other registered entities to report – see also comment 9.</p>	<p>NWC</p> <p>+D</p>	<p>We consider that the reporting from natural persons with the controlled processing integrated in the CSM has no adverse impact on the operators, is in line with a positive safety culture approach and is anyway already an obligation for the MS and the Agency.</p> <p>We proposed to leave this point for discussion during the process of adoption of the CSM.</p>

<i>N°</i>	<i>Reference (e.g. Art, §)</i>	<i>Type</i>	<i>Reviewer</i>	<i>Reviewer's Comments, Questions, Proposals</i>	<i>Reply</i>	<i>Proposal for the correction or justification for the rejection</i>
52.	Appendix A Part A	P	CER	<p>The category C events are too specific, are too unclear and we cannot see any benefit to collect them. It is a big effort, an additional burden for the railway companies without recognizable added value.</p> <p>Delete category C events</p>	R	<p>The investigation of root cause of accident is a basic element for preventing reoccurrence.</p> <p>The systematic investigation of accidents and incidents to determine their causes is a requirement for operators as part of their SMS - CSM SMS, Annex I/II, Art. 7.1.1 (a).</p> <p>In addition, the CSM mandate request an harmonised method to learn collectively on causes.</p> <p>Category C events are essential for collective learning, since they make the connection between accidents and railway processes. Without them a reported occurrence scenario would not give insight into the railway processes where a "loss of control occurred" that led up to an accident. This is vital information for collective learning purposes.</p> <p>It is part of the objectives of the Subgroup A of the GoA to further clarify the event taxonomy where this is required. Additionally, the fact that there is a type C event taxonomy does not mean that an operator needs to report on all type C occurrences.</p>

<i>N°</i>	<i>Reference (e.g. Art, §)</i>	<i>Type</i>	<i>Reviewer</i>	<i>Reviewer's Comments, Questions, Proposals</i>	<i>Reply</i>	<i>Proposal for the correction or justification for the rejection</i>
53	Appendix A, Part A (Taxonomy)	G	CER	<p>In the case of a serious consequence event as defined in Article 3 where a detailed reporting DR is required we are confident that the information on event categories listed in Appendix A, Part A, will result from the event analysis procedure. However we have to note that this will be limited to the level of detail retrieved from the event analysis. We are confident with Category A and B events, and to a lesser extent with C events and contributing factors. Concerning SMS factors we have to state that this information is not specifically investigated during event analysis and can only be roughly derived.</p> <p>Please note that it cannot be expected that the full level of detail as in Appendix A, Part A, will be retrieved in every case. This will depend how successfully the event analysis is able to identify the causes and contributing factors.</p> <p>This statement will basically apply also to significant consequence events.</p>	NWC	<p>It is indeed true that a detailed reporting on all aspects that play a role in an occurrence scenario will heavily depend on the quality of the investigation that took place.</p> <p>Probably we will see that during initial stages of the CSM ASLP implementation, not all operators will be able to provide all elements that the taxonomy allows to document.</p> <p>However, more mature operators will have the possibility to do so and less mature operators might be encouraged to improve their investigation processes in order to be able to report in a more detailed way.</p> <p>From this perspective collective learning between less and more mature operators can take place also, through GoA or independently.</p>

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54.	Appendix A - Part A.  Category A events.  Accidents with a potential to directly result in victims or damages  A7. Suicides and attempted suicides.  (pag. 76)	G	CER	<p>These indicators are not part of the "Indicators relating to accidents" group in Annex 1 of Directive (EU) 798 - 2016 and therefore should not be taken into consideration for assessments of safety levels.</p> <p>More generally, the extension of the activity concerns all the occurred events, with improvable correlation being identified between what is proposed by this regulation with what is provided for by other indicators already reported in other regulations, nor do they seem to consider other regulatory guidelines such as the one that ERA is always developing in the field of dangerous goods "Framework ERA TDG".</p> <p>The correlation with other indicators should be improved.</p>	NWC	<p>As it was discussed at the Working Party, those events can be discarded from the SL assessment.</p> <p>This can be described in details in future Appendix C – Part C to be prepared with the GoA.</p> <p>This can be further described in future Appendix C – Part C to be prepared with the GoA</p> <p>There is a full consistency of the CSM with the TDG RMF guides. Those guides are not regulatory but voluntary.</p> <p>The UNECE working group on TDG accident reports is currently working on the improvement of occurrence reporting and will have the possibility to fully align with the CSM ASLP as it has been discussed and agreed with this group from the starting development phase of the CSM. (see minutes of the meeting organised by the Agency on 17 December 2019)</p>

<i>N°</i>	<i>Reference (e.g. Art, §)</i>	<i>Type</i>	<i>Reviewer</i>	<i>Reviewer's Comments, Questions, Proposals</i>	<i>Reply</i>	<i>Proposal for the correction or justification for the rejection</i>
55.	Appendix A - Part B.  Category B events.  Incidents with the potential to directly cause a category A event  B.3. Technical Failure of the infrastructure  B.3.1 Failure of track  B.3.1.1 Broken rail  B.3.1.2 Track buckle and other track misalignment	G	CER	Given the current lack of homogeneity in the calculation methods at European level for these indicators, the evaluation would lead to misleading results for the safety levels.	NWC, D	Your comment is in fact confirming the need for a harmonised approach established by the CSM.  When the Working Party (GoA) will define the detail method applicable in Appendix C, it will still be possible to discard from the sample used for assessments those events that would lead to too big uncertainties for the comparability of Safety Levels.  Within the framework of Subgroup C, further discussions shall be held on possible data quality issues and how these can be accounted for in the assessment. We shall take this comment on board.





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58.	Appendix B	U	CER	<p>What is the outcome of this self-estimation of the safety performance? Is there any consequence if the safety performance is on one of the 5 levels? Are there differences for the companies if they are in different levels? Are there specific requirements linked with these levels?</p> <p>It is very unclear what is the benefit for the companies and also for ERA an NSA to have such self-estimated levels.</p>	NWC	<p>The responsibilities of all actors are clearly stated in article 4 of Directive 2016/798. The self-estimation is not a standalone tool. The aim is to provide assistance to the railway undertakings and infrastructure managers for self-estimating their performance and defining ways to improve their safety management system.</p> <p>This does not prevent NSAs to carry out their supervision activities, but can act as a supporting tool.</p> <p>The aim is explained in article 5.</p> <p>The aim is to provide a tool for the sector to improve the SMS of the operators:</p> <ul style="list-style-type: none"> <li>• <i>For the operators: helping them to self-assess their level and find areas for improvement;</i></li> <li>• <i>For the authorities to improve the dialogue with railway operators.</i></li> </ul>

<i>N°</i>	<i>Reference (e.g. Art, §)</i>	<i>Type</i>	<i>Reviewer</i>	<i>Reviewer's Comments, Questions, Proposals</i>	<i>Reply</i>	<i>Proposal for the correction or justification for the rejection</i>
59	APPENDIX B  <b>Technical Support Documentation</b>  <b>Article 3</b> on the Railway operators' self-estimation of safety performance	U	CER	(2)... proposed amendments taking into account its harmonised risk classification and decision-making scheme.  Does a "risk-classification scheme" imply a kind of ranking of operators?  Where and when did we decide to build risk classifications scheme?	NWC	No, it does not.  Implicitly, in 2004 with the adoption of the RSD. More explicitly EU legislation already includes a risk classification (classification of serious and significant accidents). Any operator is also required to use a risk-based approach when implementing.  The classification of event into Cat A, B, C is only a generalisation of risk-based classification.  Along these lines the GoA, should consequently apply a risk-based decision-making to avoid disproportionate or inefficient proposal.
60.	Appendix C	P	CER	A description is needed to understand this appendix C. Please provide a description.	NWC, A	Will be available in due time for the 2 <sup>nd</sup> implementation phase.
61.	Appendix D	P	CER	A description is needed to understand this appendix D. Please provide a description.	NWC, A	Will be available in due time for the 2 <sup>nd</sup> implementation phase.

*Note: This table could be changed according to the requestor's needs*

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