

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)

<i>Requestor:</i>	ERA
<i>Deadline for submitting comments:</i>	1 March 2021

	<i>Reviewer 1</i>	<i>Reviewer 2</i>	<i>Reviewer 3</i>	<i>Reviewer 4</i>	<i>Reviewer 5</i>
<i>Date:</i>	1 March 2021	12 March 2021			
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Document History

<i>Version</i>	<i>Date</i>	<i>Comments</i>
0.1		
0.2		
0.3		

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>
1.	Article 11, 3.	M	1	"Referred to in Article 11 (10)". Article 11 has no (10).	A	Corrected with the re-drafting of Article 11

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2.	Article 3, (a)	G	1	<p>“Railway operator” definition as any infrastructure manager or any railway undertaking could be misleading.</p> <p>Regarding works undertaken within the European region, railway undertakings oversee acting as railway operators since the segregation of operation and administration of railway service. So, it is recommended to use a different term that encompasses both entities.</p> <p>The term “railway operating community (ROC)” is usually used. This term is how railway undertakings and infrastructure managers are generally gathered to form this ROC.</p> <p>The concept of railway service could be used.</p> <p>In any case, please inform to notify this issue to avoid translate both terms in the same way in Spanish.</p>	NWC	<p>The CSM says IMs ‘and’ RUs not ‘or’</p> <p>The Directive (EU) 2016/798 is clear on what is a RU and what is an IM.</p> <p>The CSM uses this definition.</p>
3.	Article 3. Definitions	U	2	Definition (j) is not according to the same concept in Directive 2016/798	NWC	<p>It is fully consistent with Directive (EU) 2016/798.</p> <p>This was confirmed also by other WP members during the last discussions at WP9 and also by the NSA Network</p>
4.	Article 11.3	U	2	In the second line of this article 11.3 there is a reference to article 11(10), which does not exist in this document version. It should say 11(7).	A	Corrected

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5.	Annex I – General Part, 8.3 and 9.3 (page 29)	U	2	8.3 and 9.3 say that the “sharing request” is defined in Annex III Part A and Part B respectively. But we have not found any reference to the sharing request in these Parts A and B of Annex III	NWC	The term "sharing request" refers in this case to the datasets defined in Annex III-PartA §1.1, §2.2 and Annex III - Part B §1.1. To be noted: the sharing request are removed from the final version of the CSM and replace by straight forward requirements in the re-drafted article 4
6.	Annex I, Part B, page 31	U	2	Text deal with event codes B-1.1 and B-1.2 are inverted from those in the table of page 77.	A	Those tables are not needed anymore and have been withdrawn as a consequence of the re-drafting of article 4
7.	Annex VI Part B, pages 62 and 63	M/U	2	Referred to Entities in Charge of Maintenance (ECM), the table refers to article 14(3) b of Regulation 2019/779. However, this definition cannot be found in this Regulation, but it can be found in the same article from Directive 2016/798. Also, there is no reference to function ECM-a	A	Thank you, corrected as needed.
8.	Appendix A, Part A	P	2	Not all the Definitions are filled in. This lack of information could make railways operators to misunderstand the event type, or at least, to have different interpretations for the same event.	D	It is the intention to provide clear definitions for event types not yet defined elsewhere in the legal framework, in column 3 of the tables describing the event types. This input will be taken into account as input for the work by GoA Sub group A to continuously improve the taxonomy.

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9.		G/P	2	The implementation of the new CSM should not imply an additional demand for resources by rail operators. In this sense, duplication of tasks should be avoided. Any increase in workload is a source of negative reaction, only acceptable if greater benefits are clearly and immediately appreciated. If to the increase in work derived from the greater breadth and depth of data collection and review, we must add the duplication of tasks (internal database and common application), the attractiveness and motivation to apply the proposed method may be affected and it can imply a negative perception by those who have to apply it, instead of being seen as a good opportunity to improve safety.	R	The impact assessment outlines the expected consequences for stakeholders per element of the CSM ASLP. It is expected that benefits will outweigh costs. This is based on the a) use of a phased approach with limited requirements in the transition period(s); b) well controlled process for any future adaptations of the CSM ASLP; c) potential for optimisation of application of SMS / RCMs / supervision activities and European level SERA interventions. As such the IA only looks at the additional requirements from the recommendation not those introduced in already existing legislation. For the implementation it is foreseen that any costs linked to operators interfacing with the ISS are likely to be minimised given the likely choice for IT-system.

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10.		G/P	2	<p>To be able to execute the tasks required by this CSM, it is necessary, before starting this process, that the IT tool operating guidelines are available, and each of the events and concepts that are part of the regulation, must be fully defined and described, with precision and clarity. Before starting the process, it is required:</p> <p>a. Publication of the Manual or Guide of the Taxonomy of events.</p> <p>b. Publication of RCM Guide, definitions, analysis and management.</p> <p>c. Publication of the User Manual of the Computer application for reporting events and information.</p> <p>d. Training courses and workshops to guarantee the transmission of knowledge and the acquisition of the necessary skills to apply the methodology contained in the Regulation.</p>	<p>A</p> <p>A</p> <p>A</p> <p>A</p>	<p>Those point do not require amendment of the CSM and are agreed in principle.</p> <p>It will be facilitated by guidance developed in collaboration with the GoA.</p> <p>While not needed for the first phase, as only the CSI definitions are needed.</p> <p>However the taxonomy can be supplemented by the GoA before the first phase is started. And confirmed by a technical opinion of the Agency.</p> <p>Yes it will be done</p> <p>Yes it will be done</p> <p>Yes, ERA can organise workshops an material for training.</p>

11.		G/P	2	<p>3. Gradual or phased implementation. Differentiate:</p> <p>a. A modular or phased implementation has been contemplated in terms of the scope of the reports. This modality is committed to “starting as soon as possible” even if it starts with a limited scope of events, in order to progressively increase the scope of the reports. This idea harbors the dangers derived from starting with a lack of definition, both in the Guides and in the computer system, dragging the risks due to duplication of tasks in their initial phases, since the common base would be incapable and incompatible with the totality of events and characteristics of the internal databases of each operator. In turn, undefined events would remain, lacking in precision, generating spaces for confusion and different interpretations. This approach can lead to the kind of obstacles that do not facilitate the implementation of the Regulation.</p> <p>b. Define an implementation PLAN, based on milestones, (not a simple calendar) interrelated activities / projects, to be achieved in a harmonized way. Only if the facilitators of the system are gradually reached will progress be made on the path to achieving the objectives of the regulation. These enablers become the Prerequisites for your implementation. These requirements are basically defined in Article 9 of the Regulation, and it means that they must</p>	NWC	<p>All those elements are taken into account.</p> <p>The establishment of an harmonised structured reporting of events was the subject of many previous harmonisation projects, including COR as requested by the mandate, which lead after discussion at the working party to the current first version of the taxonomy.</p> <p>This is understood to be the best starting point available in terms of harmonisation.</p> <p>On the top of this starting point the CSM establishes a process of collective learning which will also have to take into account the need to provide missing definitions. This should be one of the continuous improvement task performed by the GoA Sub Group A, as currently proposed in the GoA Working arrangement.</p> <p>To be noted that in the first phase the serious consequence events of cat A are well defined, based on CSIs existing defintions.</p> <p>In accordance with the discussions at the working party meetings and the request to establish a phased approach, the Agency has suggested a planning and phases mainly for the purpose of identifying the possible phases and the related implementing conditions.</p> <p>The reserved elements of the CSM (Appendix C and D) are not used in the first phase implementation, thus are not needed during the first phase.</p>
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			<p>include the development of each of them in the corresponding annex. These requirements CANNOT be left pending for further development by the group of analysts. It is contradictory again to prioritize starting without preparing and disfiguring the role of an analyst. It is a good idea to foresee the group of analysts, since a correct analysis of the volume of data and information received with the new information exchange system will be key. But it would be a mistake to delegate to the group of analysts the responsibilities of the expert groups to define and develop the Guides, Manuals and sets of tools associated with the system.</p> <p>c. The gradual implementation begins once the prerequisites have been met, the computer system will be available in all its dimension, the Guides and Manuals approved, disseminated and learned. It must start with the testing phase, checking that what is registered is available and downloadable in a local application, in a way that is compatible with internal programs of the operators (avoid duplication of introduction, even if the data is arranged in two parallel databases). As the tests are satisfactory, progress will be made progressively in the breadth of the recording of events and information.</p>	<p>However, the current working party (currently) and then the GoA working party will continue the development of the missing elements for the second phase: 1) the SL and SP assessments for which some WP members have very good experience and 2) the ISS design for facilitating the implementation of the second phase that could also be tested during the first phase.</p> <p>The GoA is allocated several tasks, including analysing collected data, however it is still a working party of the Agency having the role to continue the finalisation of the Mandate requests with the Agency, including the elaboration of guides/manual/tools.</p> <p>It is the approach taken. The second phase will start when the necessary elements are present for a smooth implementation and have been tested before the end of the first phase.</p> <p>This is why the delivery of Appendix C and D are phase before the date of full implementation.</p> <p>As it was indicated in February 2021 RISC session the foreseen phasing is also conditioned by the allocation of the corresponding resource to ERA, notably for the ISS development.</p> <p>The CSM proposal is reflecting the foreseen necessary phases, for allowing preparation of each entities, including ERA preparation and ISS development.</p>
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						<p>However, the actual dates and the manner the different phases will enter into force is a responsibility of the European Commission.</p> <p>Therefore we suggest that this topic is discussed and finalised in the relevant forum.</p> <p>The result of these discussions may potentially lead to a substantial revision of the Article 11.</p>
12.		G	2	<p>The way the CSM is designed, a paradoxical situation occurs in which the operators that report more safety events will be those that will see their Safety Level penalized the most, obtaining worse results than others that have the same number of events but do not report them. This situation can be demotivating for reporting and can lead to operators in the sector who are not willing to report events that may go unnoticed. How is foreseen to avoid this situation and ensure that all the necessary information is reported by all operators?</p>	NWC	<p>Control loops are existing to avoid under reporting.</p> <ol style="list-style-type: none"> 1) <i>It is the role of the NSAs to ensure with the supervision that the CSM ASLP will be implemented correctly and if not take action.</i> 2) <i>The reporting by several operator on the same event would allow identifying under reporting</i> 3) <i>The protection of staff potentially reporting occurrence on their own</i> 4) <i>The possibility for natural person to potentially report on unnoticed occurrences.</i> <p>Compared to the current situation the CSM offers a framework to mitigate underreporting.</p> <p>Nevertheless, positive safety culture is the main element that in fact avoid underlying sources of underreporting.</p>

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13.	APPENDIX A – PART A	G/P	2	<p>Defining the events is essential so that everyone knows what to report and the information collected is homogeneous and comparable.</p> <p>Proposal: Prior to the implementation of this CSM (start of reporting information), the definitions of all types of events should be completed to avoid confusion and erroneous reports of information.</p>	R	<p>Please see answer to comment 10.</p> <p>In addition it is considered unrealistic that a perfect taxonomy will avoid all confusions. Uncertainties will be taken into account in the methodology.</p> <p>The important point is that reporting is improving with the time, with the help of the GoA, which is enabled by the CSM.</p>
14.		G	2	<p>The implementation of the new CSM will suppose a significant additional workload and will require more resources that currently do not exist. For all operators it is going to be difficult to obtain these additional resources, and, in many cases, they will have to be subtracted from other activities that are also important for safety. Has this issue be considered in the impact assessment?</p>	R	<p>See answer to Comment #9. Moreover, it is expected that the CSM ASLP will result in more efficient application of the SMS by operators and should not over time result in additional resources for operators.</p>

15.	Whereas (6)	G	2	<p>Much of the information required by this CSM is not currently available to a large part of the operators, and obtaining it requires, in many cases, substantial changes in the information registration processes, adaptation of computer tools to consider the new information required and endowment of additional human resources that are not always possible to obtain. This problem, despite having been highlighted by the operators during the development of the drafts of the new CSM, needs to be clearly considered, and also needs to be taken into account the effects that these problems may cause to the operators.</p>	NWC	<p>The conclusions of the CER EIM presentation at the Working Party 8, in terms of information availability the CER EIM conclusion were:</p> <p>“Simple Reporting</p> <ul style="list-style-type: none"> • <i>Always available: ‘occurrence type / date / time (& location as per 3rd draft CSM).</i> • <i>‘Deemed occurrence cause’: B for A mostly available without substantial preparation, C for B either not available or only after substantial preparation.</i> <p>Detailed Reporting:</p> <ul style="list-style-type: none"> • <i>“Ave 80% of data types available (60% after substantial preparation, 20% without).</i> • <i>Ave 5% of data types not available: some subtypes of weather and track-surface and light conditions are not always distinguished.”</i> <p>CER EIM reported information seems in contradiction with your comment concerning the non-availability of information.</p> <p>The Agency note that first phase is concerning only available information, involving the limited scope of events serious and significant that must already be reported in accordance to the EU legislation.</p> <p>Therefore the CSM ASLP, in the first phase requires essentially an adaptation for reporting in the CSM ASLP format in order to enable collective learning.</p>
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16.	Whereas (7)	G/U	2	<p>There is no clear definition of the way in which collective e-learning is expected to be achieved. It has not been described how the operators will learn by reporting the information required by the CSM. Due to the restrictions on information sharing, it is considered that the learning that the group of analysts can obtain will be very limited, causing certain impression that the costs of implementing the CSM to exceed the benefits obtained.</p>	NWC	<p>There is no restriction on the sharing between operators.</p> <p>It is only the case that the ISS will not share information that must be protected between operators.</p> <p>The structured information will help ADIF to share its own protected information to any operator. As it will be structured the other operators will also understand ADIF's information easily.</p> <p>The benefits in principle are well-known and have been described in the Mandate and in the Big Picture document, and explained during each WP meetings.</p>
17.	Whereas (11)	G	2	<p><i>“11) In order to improve the comparability of data and information shared by each railway operator, and thereby improve the overall implementation quality of the common safety methods, <u>a harmonised taxonomy of safety-related events and risk control measures should be established,</u>”</i></p> <p>Despite it is foreseen in the whereas of the CSM, no harmonized taxonomy of RCM has been established.</p> <p>This task needs to be completed in advance of the entry into force of the CSM.</p>	NWC	<p>The working party is currently working on it with a quite good agreement level.</p> <p>The Agency will produce, on that basis, a Technical opinion, before the CSM will enter into force.</p>

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19.	Article 5.4	U	2	<p>How is the comparison of the Safety Performance of the operators going to be made with the SP indicators at national and European level if aggregations of these indicators cannot be made, as they are ordinal numbers? This problem has already been highlighted during the development of the working groups of the draft CSM, but a solution to this problem has not been defined. How will this legal requirement be fulfilled?</p>	NWC	<p>Several members of the working party disagree with the statement that a certain aggregation is not applicable.</p> <p>Even without aggregation, it would not prevent the NSA to compare the operators it supervises.</p> <p>The aggregation at National and Union levels on SP indicators will be re-discussed in the course of the development of the Appendix C.</p> <p>The Agency do not foresee any legal blocking point there.</p>
20.	Annex IV. 5.1.3.(b)	U	2	<p><i>(b) Several combined causes – several Cat. B event types – are identified. In this case the counting of the occurrence for the safety level estimation is allocated in the applicable proportion(s) to the railway operator(s) involved in the occurrence that are responsible for the part(s) of the system which are deemed to have caused the occurrence.</i></p> <p>What happens if different operators identify different causes with different operators responsible? How is the proportion of responsibility applicable to each party distributed?</p>	NWC	<p>This question is covered in Annex IV section 5.1.3.</p> <p>Evenly distributed in case of disagreement.</p>

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21.	Annex IV. – 9.4 Targeted data set	U	2	<p><i>Set of reported occurrences declared as valid by railway operators in accordance with CSM ASLP</i></p> <p>Which reported occurrences must be validated by the operators? Those which were reported by them, or others reported by third parties too?</p> <p>In the first option, why should be this validation necessary? Data should be the same that the operator reported before.</p>	NWC	<p>The operator is requested to validate the occurrence applicable to it.</p> <p>In a few case, the information to be validated may come from a third party. (see comment 12)</p> <p>In the first option, the validation is necessary because the operators are allowed to report gradually and update their reporting if necessary until the validation deadline.</p>

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22.	Annex VI – PART A. 3.4	U	2	<p><i>“Voluntary reporting shall be subject to an agreement between the concerned entity or entities and the Agency and may be subject to a specific fee-based regime in order to cover, when necessary, the expenditures incurred by the Agency related to the design, setting, operation, and maintenance of the shared data and information.”</i></p> <p>Why should voluntary reporting be subjected to a fee-based regime?</p>	NWC	<p>The proposal reads ‘MAY be subject...’</p> <p>In theory, when the ISS is established, some operators may wish to use it voluntarily in an extensive way to fulfil specific needs (for examples detailed monitoring, operators sensors feeding an automated specific monitoring).</p> <p>This article covers the situations where the voluntary use of the ISS by any party – for reporting non-mandatorily requested datasets - would result in increased ISS operation costs or even investment costs (bigger/quicker server needed).</p> <p>As it is impossible to define the volume of such situation today, the article indicated that fee would be applied to cover voluntary and specific use of the ISS by an entity.</p> <p>This article protects both the operators and the Agency as in such case a specific agreement shall be negotiated. This is to be understood in the remaining context that the Agency is not entitled to make profit, thus fees would be to cover the extra specific cost incurred by the Agency.</p>
23.	Annex IV, Part B Table 1.2- National Entities	U	2	<p>NAT</p> <p>What does NAT means?</p>	NWC	<p>NAT = National</p>

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	Article 11.	G	2	For the correct application of this CSM, it is necessary to establish progressive planning, with clear, achievable milestones that can be implemented based on the development and fulfillment of all the necessary prerequisites. It is not possible to establish by default dates of entry into force of the CSM, without knowing if the necessary requirements for its correct application will be covered, before the dates established in the legal text.	NWC A	The planning foreseeable has been uploaded on Extranet WP workspace. The Article 11 is re-drafted with consecutive steps to be followed, triggered by a recommendation of the Agency to start a step when preconditions are reached.

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

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