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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>Date:</i>	2021-03-12				
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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>

N°	Reference (e.g. Art, §)	Type	Reviewer	Reviewer's Comments, Questions, Proposals	Reply	Proposal for the correction or justification for the rejection
1.		G, P	1	<p>The time point for introducing this CSM is very poorly chosen. The Covid-19 virus has made the economy of various railway companies worse, and the fall in commercial passenger traffic is very high, which has led to a very significant drop in income revenue. In this difficult time for the Railways – a system of transport which in itself carries the solution of many future problems, i.e. environment, congestion etc. – it is a very bad idea to implement further administrative burdens, which will lead to more costs but with very little instant rewards back to the respective railway companies. As long as no EU funded compensation is available to somewhat extent ease the burden of Covid-19 and/or this proposal, we strongly request that the introducing of this CSM is prolonged at least 2-3 years forward in order for the railway companies to regain some of its financial ability.</p>	<p>A</p> <p>NWC</p>	<p>The Agency has proposed a phased approach to facilitate the progressive implementation of the proposed CSM. This is covered by Article 11, allowing a smooth introduction of the CSM phases, accompanied with lessons learned by the Group of Analysts.</p> <p>Please, note that the Agency has no role in deciding on the dates of entry into force. This is discussed during the adoption process to be managed by the European Commission.</p>

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2.		G	1	<p>One of the main focuses in the proposal is to make it possible for all states and railway undertakings as well as infrastructure managers to learn from accidents and incidents. This is of course a good thing in theory but as the railway system is just in the very beginning of getting harmonized within the EU – it is highly probable that lessons learnt in one state cannot be used in another state due to the non-harmonized railway system. In the future, when the various TSD has harmonized the whole railway system in Europe, then lessons learned in one state can be useful in other state, as they are harmonized. In our opinion many of the findings of the CSM ASLP, when implemented now as in your proposal, will not lead to safety improvement due to that the same situation (in vehicles, operations rules, signalling system, educational system etc.) is not at hand in other states and therefore the lessons learned is not at all applicable in the other states.</p>	NWC	<p>The collective learning can only be seen has a continuous improvement process. One cannot state that at a given time it is achieved and it is not at all achieved the day before.</p> <p>This is why the CSM is setting collective learning processes and a Group of Analysts that will spot the areas where collective effort has the best value.</p> <p>This is also to be considered in addition to the fact that the data to be reported are in areas where operators are already obliged to monitor and investigate occurrences.</p> <p>From that perspective the CSM ASLP is introducing a structured and harmonised approach.</p>

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3.		G,P	1	Self-estimation of maturity level is a way forward in which ASTOC Sweden does not approve at all. The risk of “gold-plating” and “down-grading” is very hard when using this method. We consider that safety is at stake if such method would be implemented. A RU with questionable level of safety morale could be tempted to “gold-plate” their own performance, in order to avoid having to institute costly measures. There is a severe risk, as we see it, that the system could punish good and truthful behaviour and reward the un-truthful ones. The system has already been tested in Sweden many years ago by the former NSA, and the results and experiences are not all good.	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. This does not prevent NSAs to carry out their supervision activities, which can highlight the difference stated.</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"> • <i>For the operators: helping them to self-assess their level and find areas for improvement;</i> • <i>For the authorities to improve the dialogue with railway operators</i>

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4.	Article 6	G	1	It must be stressed that the Group of Analysts must be consisted of representatives from all the railway field, and also representing the different levels of maturity in safety matters. Also, geographically it must be a representative selection of members within this Analysts Group. It must be ensured that RU and IM are well represented by several members within the Group of Analysts – since the source of information comes from them, the impact (financially, workload etc.) is very heavy for them and the output will also be direct towards them to handle.	NWC	<p>The Group of Analysts will be a Working Party as defined in Regulation 2016/796.</p> <p>Article 5 of this Regulation states:</p> <p>These working parties are further explained in Article 5 of this Regulation:</p> <p>“The working parties shall be composed of:</p> <ul style="list-style-type: none"> — 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 3. 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.”.

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5.	Article 7	G, P	1	<p>In order to facilitate this CSM it is of key essence that reporting from RU is only needed once – to the NSA and that NSA is made responsible for carrying on the total amount of reports for the State to ERA. Under no circumstance is it acceptable for RUs to have to report to two (or more) instances.</p> <p>The already today existing report way and method between RU and NSA must therefore be kept unchanged.</p>	A	<p>The CSM is only requiring the RUs to report once. No double reporting is required.</p> <p>It can be done through the NSAs (Indirect channel) or Directly (Direct channel) to the Information Sharing System (ISS) which will forward the operators' information to the NSA.</p> <p>In this case you may use what is called the 'Indirect channel' and the NSA will forward directly and immediately your information to the ISS.</p>

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6.	Annex I	G	1	<p>The C-category of SR is often very hard to find immediately after an incident has occurred. The C-category has more of “why did it happen” than the A-category which has “what did happen – consequence” over it. This could lead to that only after the investigation is concluded can the C-type event be reported. This condition seems not been taken care of (or mentioned) within this Annex. It would virtually be impossible to be able to report a C-event within the same time frame as an A-event.</p>	NWC	<p>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. Probably we will see that during initial stages of the CSM ASLP implementation, the operator will not be able to provide all elements that the taxonomy allows to document. 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>Additionally, an operator that will be reporting on an occurrence scenario should have the possibility to access the scenario he reported in the ISS and add additional element that have become evident at a later stage in the investigation process.</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. It is part of the objectives of the Subgroup A of the GoA to further clarify the event taxonomy where this is required.</p>

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7.	Annex II	G	1	The construction of the different levels within Safety Performance is very crude and does not consider that the level of maturity can differ between the different subjects within each level. A RU will then get very low level of maturity even if 4 out of 5 subjects are several levels higher than the odd fifth subject. It will lead to a downgrading of the overall maturity level, which will in no account deflect the overall statues of the single RU. This will not help ERA, NSA or the RU to make the right decisions and to get the right perception of how the RU is performing. This very crude listing of different levels makes it hard to conclude a more precis listing and comparison of the different levels of maturity level among several (all) RUs.	NWC	The aim is not to use this tool to take decisions, but to foster dialogue with the authorities and find areas for improvement. Furthermore, the description of the levels are based on existing legislation and taking into account acknowledged norms for maturity models. Also, results for the different processes will not be added but rather presented separately.

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8.	Annex III	G, P	1	It is very hard to understand how to correct interpret the text and meaning in this Annex III. An example would, most likely, have been very valuable in order to more easily interpret the text. As now, it is very hard to understand in which form, context, way etc. that one should report risk control measures. The thought behind the proposal has not been properly described in an understandable manner in this Annex. We foresee that this Annex III will lead to severe problems for RU unless some clarification and explanation is added to this Annex. Therefore, it is of great necessity that such clarification and explanation will be added.	NWC	Several examples have been presented during the Working party discussions. The Agency will develop further example and guidance on this topic to assist the reporting of scenarios along this reporting structure.

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

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