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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)

<i>Requestor:</i>	Consultation.ERA1219@era.europa.eu
<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>	5.3.2021	24 February 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.		G	E4	Article 6 of the safety directive defines that CSM shall describe how the safety levels, the achievement of safety targets and compliance with other safety requirements are assessed, including, where appropriate, through an independent assessment body. The working party called "Group of Analysts" is neither in accordance with Article 5 of the regulation (EU) 2016/796 ("Creation and composition of the working parties and groups") nor is it a independent assessment body.	NWC	<p>The Group of Analysts (GoA) is not given the role to assess operators by the CSM ASLP.</p> <p>The GoA is created as a working party of the Agency in accordance with Article 5.1 of Agency Regulation.</p> <p>The CSM proposals in line with the mandate requirement "the definition of the methods to be used, by railway undertaking and infrastructure managers ("railway operators"), national safety authorities, and, where relevant, the Agency for the assessment of safety level and safety performance of the railway operators, on the basis of the information related to safety management system efficiency and of safety occurrences collected and shared")</p> <p>For efficiency reason it is proposed that the Agency implement –without deviation- the assessment method defined by the working party.</p>

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2.		G	E4	The draft introduces types of acts of the Agency that are not contained in Article 4 of the regulation (EU) 2016/796.	NWC	<p>The mandate foresees that other recommendations way follow the 1st recommendation on the CSM ASLP. This possibility is used for taking into account technical and scientific progress.</p> <p>Article 4.2 of the RSD requires the Agency “to ensure that railways safety is generally maintained, within the limits of its competence, taking into account technical and scientific progress”.</p> <p>The Agency Regulation foresees that Opinion and Recommendations can be issued/addressed in many cases, including on safety related aspects, in some case on its own initiative, for example see article 17 of AR.</p> <p>The Mandate is requiring to “define the responsibility of the actors (including the national safety authorities and the Agency) in relation if necessary to defining occurrence taxonomy, training of operators' staff in reporting scheme, registry keeping, and other control mechanisms required to guarantee the exchange of harmonised and comparable data between the involved actors both on national and EU level”.</p> <p>To ensure the CSM ASLP adaptation to the needs with the time it is necessary to allow the Agency to issue/address technical opinion or recommendation in the controlled manner established by the CSM proposal.</p>

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3.		G	E4	The draft does not follow the Commission Implementing Decision C(2018) 8887 final, especially regarding the scope of the CSM and consistency with other developments (eg. Regulation (EU) No 1078/2012 is not even mentioned in the draft).	NWC A	<p>The proposed CSM, does not overlap with Regulation (EU) No 1078/2012 and is fully consistent with it.</p> <p>The consistency of the CSM ASLP approach was explained at the working party meetings. The proposed CSM does not duplicate or replace in any manner the roles and responsibilities established by other applicable railway legislation.</p> <p>We propose to add recital (3) as a clarification concerning the interaction of the CSM ASLP with pre-existing EU legislation.</p>
4.		G	E4	The draft does not take into consideration that railway operators will still have to inform the NSA and the NIB, which would result in double or triple reports.	NWC	<p>A given operator has to report information only once, either directly to the ISS, or via a third party entity (e.g. NSA) which will forward the information reported by the operator to the ISS (indirect channel).</p> <p>This is covered by Article 7 in general and Annex VI Part D in particular.</p> <p>In accordance with the sharing rules of Annex VI, the NSAs and the NIBs will have access to the information with the ISS sharing process.</p>

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6.	Art. 3, i), j)	G	E4	It is necessary to include in the definition by whom the amount of damage is to be determined. In the case of the Safety Directive for example the NIB determines the total damage. It should be ruled out by a concrete specification that one serious consequence event does not become several significant consequence events if, for example, two RUs and one IM are involved but each determines the damage only for itself. If more than one railway operator is involved, the amount of damage should be determined by consensus among the railway operators.	A	<p>A clarification on how to report damages for operators will be introduced in the final draft.</p> <p>To avoid the issue you mention and after discussion at the WP9 it is proposed that each operator report both an estimation for the whole and its own estimated damages which can be checked by the NSA for a given occurrence (sum-up can be supported by the ISS), as it is already practiced nowadays in some countries.</p> <p>The reported damages are visible by every parties involved with the ISS and final corrections can be elaborated with this support.</p>
7.	Art. 4, 1. (a)	G	E4	If every involved railway operator (RU and IM) reports incidents, then some incident will be reported twice or more, possibly contradicting each other. Without a judicial decision, contradicting reports are useless for the evaluation of railway operators.	NWC	<p>For understanding properly incident scenarios, it is beneficial that every party involved report their observations. (see your previous comments on the reported damages)</p> <p>The CSM allows the operator for updating and correcting the incident report when a common view will be reached, when reached.</p> <p>Independently, the NIB still deliver a report on the applicable occurrence types defined in the Directive.</p>

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11.	Art. 6, 2.; Art. 10	P	E4	The group of analysts concerned (or another organisational unit yet to be defined) should, in addition to the specific tasks assigned in Annex VII, also be given the task of carrying out or initiating an evaluation. After a certain term of the present programme, a formative evaluation would presumably be purposeful and helpful for further development. In particular, as a contribution to collective learning, the benefits and effects of this evaluation should be included	NWC	In the proposed CSM the GoA is entitled to make any proposal it would judge useful and to build its working program accordingly. In particular, the GoA will contribute to the monitoring of the CSM implementation in its annual report and also in accordance with Article 10. Other specific evaluations are covered in the Annex VII by the development of the GoA analysis function.
12.	Art. 8, 2.	D	E4	If the agency offers services, it competes with private service companies and independence and impartiality might decrease. Agreements are not comparable with fees and charges (Article 2 and 3 of the implementing regulation (EU) 2018/764)	U, NWC	This article is primarily devoted to protect the Agency from expenditure that would result from specific individual requests for use of the future ISS users that would require modifications of the ISS. However, as many pre-existing systems should be connected to the ISS, we cannot exclude situations where a user of the ISS would like to optimise the use of the ISS, for example to automatize data treatments specific to it. In this case, potential development cost of the ISS should be covered by the requesting specific user.

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13.	Annex 1, 3. Simple Reporting.	G	E4	The train number(s) and the vehicle number(s) must be reported, in order to be able to coordinate the reports of different RU and IM for the same incident.	NWC	<p>The ISS will integrate a process to allocate reporting to a given occurrence based on the element required in the simple reporting (date/time/location/event type).</p> <p>The Identification of the train is included in the detailed reporting with Train number(s) involved.</p> <p>Based on this number it is not necessary to duplicate reporting on the train composition as the TAF TSI messages already contain the detailed train composition, starting from the Train number(s). This information may be then collected automatically from other registers/system directly by the ISS.</p> <p>The detailed processes will be described in Appendix D.</p>

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14.	Annex I, Part A and B	D	E4	Accidents in connection with the change of passengers should be explicitly reported. This represents a significant risk in passenger transport.	NWC	<p>The proposed Appendix A is a starting reference point.</p> <p>With the current CSM proposal, AT can propose a modification to the GoA, that would lead to an update of this Appendix.</p> <p>The Agency would suggest that you provide the necessary elements to the CSM ASLP Working Party as foreseen in the Appendix A Article 3.2.1:”</p> <p><i>a. The concerned actor shall submit the following elements:</i></p> <ul style="list-style-type: none"> <i>i. A new event name,</i> <i>ii. A corresponding definition,</i> <i>iii. The category/sub-category of event types it would belong too, or if it would belong to a new category;”</i>
16.		G	E4	Many titles in the annexes do not reflect the real contents, eg. Annex II deals with “Data and information on self-estimation of safety performance”, not as the title might express “Collection of data and information on safety performance”.	A	The titles have been reviewed while simplifying the CSM text and restructuring the Appendices.

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17.	General	G	LK	<p>There is a big need for clarification in many points. A guide with some examples for all points in the document should explain the basics (how to do, how to fulfil the requirements) and the aim which should be reached by these points.</p> <p>Explain the how and why of all requirements and explain also the consequences of the concerned points (e.g. safety level and safety performance) – what will ERA do with the data, are there consequences for the companies (and if yes which consequences are planned) what is the added value for the railway companies and the railway in Europe ...</p>	NWC	<p>As any CSM, there will be a learning curve that should also be accompanied by guidance and training.</p> <p>The guidance may cover the explanations that have been discussed with the working party, including on 'what' and 'how'.</p>
18.	General	G	LK	<p>There are some open points in the document – so the document is incomplete (should be completed before enter into force) – some missing points are precondition to understand (Annex I, point 4; Appendix C; Appendix D)</p>	NWC	<p>The CSM is establishing phases for the entry into application. The elements you mentioned will be adopted before they are applicable.</p>
19.	General	G	LK	<p>There is a need for a clear timetable for every point in the document.</p>	NWC	<p>If related to the previous point, your comment is covered by Article 11.</p> <p>In addition the Agency has already provided a detailed planning of the needed activities relating to the CSM ASLP. This document is published on the CSM ASLP Extranet and is maintained with the Working Party members.</p> <p>As soon as the GoA is established a similar planning should be maintained with the help of this group.</p>

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20.	General	G, P	LK	The information sharing system is an important precondition to start the CSM. The system have to be ready before this CSM enters into force.	NWC	<p>The ISS is a precondition for the application of the assessment, because of the systematic treatment of the information to be processed and the number of processing/control loops it requires to allow a fair assessment of each operator.</p> <p>However the non-availability of the ISS does not prevent the entry into force and application of the collective learning in a limited extent. It will be restricted to the accident scenarios with serious consequences, leading to a manageable amount of data and the possibility to start with collective learning process involving the GoA.</p>

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21.	Art 2	P	LK	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)	NWC	<p>The question of the scope including ‘natural person’ has been extensively discussed and the Agency has carefully assessed the implications.</p> <p>We disagree with the idea that the natural person reporting should be compared with social network usage.</p> <p>On the contrary, the processing of natural person reporting concerning safety 1) is an already existing obligation for the Agency and EU MS, 2) the inclusion in the CSM will allow requesting structured reporting, 3) the sharing rules and the data management process will allow to take only into account valid reporting and to reject irrelevant ones, 4) the operators will be informed of the reporting that may be forgotten and will ask the operator to validate or to reject the information collected from other source.</p> <p>The Agency believe that it is a transparent/open/ and safely controlled and potentially relevant source of information as is will allow integrating better the interactions with the railway users.</p>

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22.	Art 3	P	LK	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)	NWC	<p>We have carefully taken into account this point and the current definition are fully consistent with the CSIs definitions and Cat A, B, C events are using the basis definitions of the RSD on accident and incidents. CSIs are actually particular selected events forming a subset of Cat A, B, C event types.</p> <p>The Taxonomy reported in Appendix A – Part A, clearly show the event types strictly corresponding to the current CSIs definitions, without overlapping the other event types.</p> <p>Thanks to this approach the pre-existing definitions can be used and the CSIs definitions are also fully identifiable with the proposed definition and taxonomy.</p>
23.	Art 5	U	LK	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>The CSM ASLP does not provide extra role the Agency can already exercise, notably in terms of technical opinion or recommendation.</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 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>

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24.	Art 5	P	LK	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>The foreseeable content of Appendix C in terms of detailed method to be used was extensively discussed by the working party. These discussions allowed to frame the orientation of the SL and SP assessments with Annex IV and V and to be certain that detailed methods can be described in appendix C.</p> <p>Two well-defined methods to be formally described in appendix C have been discussed at the working party for estimating SL. These two methods (frequentist approach, Bayesian approach) have been used by some WP members with success for a long time period (>10 years). Appendix C will be finalised on this basis, in due time, before its implementation is required (2nd phase of the CSM).</p> <p>This appendix will also be adopted through the same legal process as the present CSM recommendation.</p>

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25.	Art 6	U	LK	<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	<p>The GoA activities are described in Annex VII.</p> <p>The outcomes will be proposals, to be converted, or not, into legal amendments of EU legislation or into safety information published for the voluntary use of the stakeholders.</p> <p>The publication of non-binding information is already exercised by ERA in the framework of the JNS workflow, with the publication of safety notices on the Agency website, resulting from the JNS analyses.</p> <p>From JNS experience, non-binding information are also very useful to understand, for example, the scenarios of some accidents and to improve SMS of each operators potentially concerned by similar scenarios.</p>

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26.	Art 7	P	LK	<p>In many Countries the companies reports their accidents and incidents to the NSA according to a given requirement by the NSA. 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>	NWC	<p>The CSM ASLP allows for two possible reporting channel.</p> <p>The indirectly from the operator through a third party (for example the NSA) to the ISS, or directly from Operators to the ISS.</p> <p>By the way, the current practices or a more direct channel can be used by operators.</p> <p>In no way a double reporting is expected as the CSM will take the reporting made by the operators through one or another channel and will share the reported information with the other applicable entities.</p> <p>It will allow every parties to access up-to-date and relevant information at any time without multiplying the currently used reporting channels.</p>
27.	Annex I Gen Part 3.2.2	P	LK	<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 working party members considered that +72 hours for Cat A events and the end of the reporting period is reasonable and correspond to what is currently practiced for the Simple reporting.</p> <p>For Detailed reporting +2months is allowed.</p>

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28.	Annex I Gen Part 5.	P	LK	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))	NWC	It is exactly the approach that is followed by the introduction of the taxonomy in Appendix A- Part A. With the time, it is expected that full definitions will be available for each items of the Taxonomy. The CSM ASLP will be available in every EU languages, and the structured coding of event will also be used for allowing the definition of every EU MS languages in the ISS.
29.	Annex III Gen Part	U	LK	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.	NWC	Yes a guide will be provided with examples. Some examples have already been discussed in the Working Party showing the applicability of the structured method.
30.	Annex III Part A	U	LK	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.	NWC	Yes a guide will be provided with examples. Some examples have already been discussed in the Working Party showing the applicability of the structured method.
31.	Appendix A Part A	P	LK	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. Delete category C events	NWC	Cat C events are only used in the case of detailed scenario reporting. It is very important for preventing the reoccurrence of dangerous scenarios to understand indirect causes and root causes to be prevented. It is a clear request of the CSM ASLP mandate to understand scenarios' causes for collective learning. The Taxonomy of event C types have been discussed in detail for many years in several expert groups, notably the human factors network, the COR project... And it is considered mature for introduction in the CSM ASLP.

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32.	Appendix A	M	LK	In the part of definitions there is a link to Article 3.2.1 of this Appendix – but there is no point 3.2.1 in this Appendix – should be corrected	NWC	The Article 3.2.1 of Appendix A is correctly defined and referred to. We do not see the issue to be corrected.
33.	Annex VI Part B 1.2	P	LK	Delete in the section “other entities” the type “NPER” natural person It should be only possible for the other registered entities to report – see also comment 5.	NWC	Please see answer to comment 21.

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34.	Appendix B	U	LK	<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>Please see answer to comment 23.</p> <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> <p>In addition, we consider that the benefit for the companies 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>It is also a good supporting exercise for the preparation of the next renewal of the Safety Certificate and Safety Authorisation.</p>
35.	Appendix C	P	LK	Description needed to understand. Deliver description before entry into force of CSM.	NWC	Please see answer to comments 24.
36.	Appendix D	P	LK	Description needed to understand. Deliver description before entry into force of CSM.	NWC	The Appendix D will be available before the ISS is mandatorily applied. The entry into application date will be established in accordance with the availability if the ISS.

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37.	General	G	LK	If this CSM is fully applied in Europe it will replace the CSI (Common Safety Indicators) and the CST (Common Safety Targets) – therefore they should be deleted at this time	NWC	<p>The mandate suggests that a revisions of the CSI and CST legislation could be recommended.</p> <p>The Agency considers that such recommendation could be deliver when the key workflows established by the CSM ASLP are well implemented.</p> <p>At this time it should be possible to simplify further the EU legislation for the delivery of the CSIs and CSTs based on the implementation of the CSM ASLP.</p> <p>This is why the recital indicate that the CSM ASLP mandate should be kept open with the view to supplement the first Agency recommendation.</p>
38.	General	G	MW	<p>Information only in relation to safety-relevant events that are necessary for safe railway operation:</p> <ul style="list-style-type: none"> - Broken rails, etc. yes - Track warping, broken rail fastenings, etc. no, as it is not necessarily safety-relevant 	NWC	<p>We have information on several accidents due to broken rail fastenings.</p> <p>Every causes or root causes of accidents are actually safety relevant for allowing well-targeted safety improvements.</p>
39.	General	G	MW	Terms are generally to be specified, e.g. "Switch and crossing failure" or "Earthworks / embankment failure"	NWC	Yes the CSM ALSP workflows establish a continuous improvement of the Appendix A. It means that any proposal for improved/missing definitions should be submitted to the GoA and should then form a proposal for improvement of the next version of the Appendix A.

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40.	General	G	MW	Errors such as track position errors, rail surface errors, track gauge errors, safety technology errors are generally only to be reported in the event of an accident	NWC	The CSM ASLP request the reporting of cat B occurrences (direct causes of accident) with a simple reporting. It will allow to identify important volume of near-misses and to target improved control measures, where it is efficient.

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

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