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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

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*Document History*

<i>Version</i>	<i>Date</i>	<i>Comments</i>
<i>1</i>	17.03.2021	This document has been compiled on the basis of several comments provided by member companies and experts of VDV. An important input – but not the only input – to this document are forming the comments compiled by CER, these are generally supported by VDV.

*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	VDV	<p>Der Verband Deutscher Verkehrsunternehmen e. V. (VDV) ist der Branchenverband des öffentlichen Verkehrs und der Eisenbahnen in Deutschland. Wir vertreten über 600 Mitgliedsunternehmen, davon weit über 200 Eisenbahnen. Nach Transportleistung vertreten wir über 90% des Schienengüterverkehrs in Deutschland und über 80% des Eisenbahnpersonenverkehrs in Deutschland. Bei den Eisenbahninfrastrukturunternehmen vertreten wir über 90% der Streckenlänge der Eisenbahninfrastruktur in Deutschland.</p> <p>Das Merkmal „sicherstes Landverkehrsmittel“ ist für die Eisenbahnen Auszeichnung und Verpflichtung zugleich. Die Eisenbahnen setzen traditionell hohe Anstrengungen in Erhalt und ständige Weiterentwicklung des Sicherheitsniveaus. Die Eisenbahnen haben hierzu jeweils ein SMS eingerichtet, dass von der zuständigen Behörde (bzw. den zuständigen Behörden) geprüft und überwacht wird. Die Eisenbahnen arbeiten gemäß den bestehenden gesetzlichen Verpflichtungen an der ständigen Weiterentwicklung und Vervollkommung des SMS. Dies trägt zur Beibehaltung und – wo möglich – zur Erhöhung der Sicherheit bei. In diesem Zusammenhang sei auch auf Erwägungsgrund 5 der Ril. (EU) 2016/798 hingewiesen.</p> <p>Am gemeinsamen Ziel – die Stärkung der Sicherheit des Eisenbahnverkehrs – arbeiten auch</p>	<p>§§ Google translation §§</p> <p>The Association of German Transport Companies e. V. (VDV) is the industry association for public transport and railways in Germany. We represent over 600 member companies, including well over 200 railways. In terms of transport performance, we represent over 90% of rail freight transport in Germany and over 80% of rail passenger transport in Germany. At the railway infrastructure companies, we represent over 90% of the route length of the railway infrastructure in Germany.</p> <p>The characteristic “safest means of land transport” is both an award and an obligation for the railways. The railways traditionally put great effort into maintaining and continuously developing the level of safety. The railways have set up an SMS for this purpose, which is checked and monitored by the competent authority (or the competent authorities). The railways are working on the continuous development and improvement of the SMS in accordance with the existing legal obligations. This helps to maintain and - where possible - to increase security. In this context, the Ril. (EU) 2016/798.</p>
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			<p>die ERA und die nationalen Sicherheitsbehörden. Insofern können wir die Intention des vorgelegten Entwurfs der “CSM ASLP” zumindest im Ansatz nachvollziehen und grundsätzlich unterstützen. Die Verfügbarkeit von Informationen sowie der Austausch über gefährliche Ereignisse namentlich mit der ERA und den anderen Behörden sind für Erhalt und Verbesserung des Sicherheitsniveaus ebenso zweckmäßig wie erforderlich.</p> <p>Jedoch ist der Austausch von sicherheitsrelevanten Informationen zwischen den Eisenbahnen und zwischen Eisenbahnen und ECM heute bereits gesetzlich geregelt und wird praktiziert. Dieser Informationsaustausch lässt sich jedenfalls nicht auf den Austausch von Daten reduzieren. Wichtig ist jeweils der Austausch von fundierten Informationen im Zusammenhang. Hierzu existiert beispielsweise eine Reihe von nationalen und internationalen Fachgremien.</p> <p>Den vorliegenden Entwurf der CSM ASLP und die darin enthaltenen Maßnahmen halten wir für wenig geeignet, insbesondere viel zu aufwendig. Wir unterstützen grundsätzlich, dass die Erfassung von Daten in Zukunft EDV-gestützt ablaufen sollte. Ferner sehen wir es als erforderlich an, dass die Definitionen der zu meldenden Daten zwischen der ERA, den nationalen Sicherheitsbehörden, den nationalen Unfalluntersuchungsstellen und den</p>	<p>ERA and the national safety authorities are also working towards the common goal of strengthening the safety of rail traffic. In this respect, we can at least partially understand the intention of the submitted draft of the “CSM ASLP” and support it in principle. The availability of information and the exchange of information about dangerous events, in particular with ERA and the other authorities, are both useful and necessary for maintaining and improving the level of <i>safety</i>.</p> <p>However, the exchange of safety-relevant information between the railways and between the railways and the ECM is already legally regulated and practiced. In any case, this exchange of information cannot be reduced to the exchange of data. The exchange of well-founded information is important in each case. There are, for example, a number of national and international specialist bodies for this purpose.</p> <p>We consider the present draft of the CSM ASLP and the measures contained therein to be unsuitable, in particular far too expensive. We fundamentally support that the collection of data should be computer-supported in the future. Furthermore, we consider it necessary that the definitions of the data to be reported should be harmonized between the ERA, the national safety authorities, the</p>
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			<p>Statistikbehörden einheitlich abgestimmt sein sollten.</p> <p>Für die im Entwurf vorliegende CSM ASLP ist ein zufriedenstellendes Kosten-Nutzen-Verhältnis weder endgültig bewiesen noch offensichtlich. Die Arbeitsbelastung der Eisenbahnen wird selbst in einem Mitgliedstaat mit einem funktionierenden nationalen Meldesystem erheblich zunehmen. Die CSM-ASLP erfordert eine viel höhere und eingehendere Berichterstattung, als es von anderen CSMS angefordert wurde. Gleichzeitig ist der Nutzen der Berichterstattung gering und in den meisten Fällen nahezu Null.</p> <p>Die im Entwurf vorliegende Verordnung wird nach unserer Einschätzung schwerlich einen Beitrag zur Stärkung des Interoperablen Eisenbahnverkehrs leisten. Vielmehr belastet sie die Eisenbahnen durch eine Flut von Meldungspflichten und zusätzlichen Pflichten zur Dokumentation, welche das System Eisenbahn im Vergleich zu anderen Verkehrsträgern deutlich schlechter stellt.</p> <p>Der „Green Deal“ der EU fordert auch eine Förderung des Schienenverkehrs. Der vorliegende Entwurf wirkt diesem jedoch durch verstärkte Bürokratisierung entgegen. Wir erwarten durch dieses Anforderungen auch keinen Mehrwert für die Sicherheit. Es besteht im Gegenteil sogar das Risiko, dass durch weitere bürokratische Aufwendungen die Kapazitäten bei der Arbeit an</p>	<p>national accident investigation authorities and the statistical authorities.</p> <p>For the draft CSM ASLP, a satisfactory cost-benefit ratio has neither been definitively proven nor obvious. The railways' workload will increase significantly even in a Member State with a functioning national reporting system. The CSM-ASLP requires much higher and more in-depth reporting than requested by other CSMs. At the same time, the usefulness of reporting is low and in most cases close to zero.</p> <p>In our opinion, the present draft regulation will hardly make a contribution to strengthening interoperable rail traffic. Rather, it burdens the railways with a flood of reporting obligations and additional documentation obligations, which puts the railway system in a significantly worse position than other modes of transport.</p> <p>The EU's "Green Deal" also calls for rail transport to be promoted. However, the present draft counteracts this by increasing bureaucratisation. We do not expect any added value for security from these requirements. On the contrary,</p>
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			<p>der wirklichen Sicherheit fehlen (z.B. wichtiger Punkt menschliche Faktoren – hier ist ein differenziertes und zum Teil sehr individuelles Vorgehen erforderlich, der direkte Kontakt und Austausch zu den Mitarbeitern ist erforderlich, nicht das Füttern von Datenerfassungssystemen).</p> <p>Der administrative Aufwand für das Betreiben einer Eisenbahn ist bereits jetzt sehr hoch. Die weiter steigende bürokratische Belastung wird die Kosten des Systems Eisenbahn einseitig weiter ansteigen lassen und die Wettbewerbssituation der Eisenbahnen verschlechtern. Jeder durch dann zwangsläufig erforderliche Preissteigerungen oder Angebotseinschränkungen auf die Straße abwandernde Verkehr lässt das Sicherheitsniveau im Verkehr gesamtwirtschaftlich sinken.</p> <p>Das kann nicht im nicht im Sinne der ökologischen Entwicklung Europas sein kann.</p> <p>Zusammenfassend halten wir fest: Weder aus dem “Green Deal” noch im Sinne der „EU-Agenda zur besseren Rechtssetzung“ kann aus dem Bereich der europäischen Eisenbahnsicherheit, dem europäischen Ereignisgeschehen im Schienenverkehr und aus dem Verordnungsentwurf selbst kann eine Begründung für die Inkraftsetzung dieser CSM ASLP abgeleitet werden.</p> <p>Ergänzend zu dieser grundlegenden Einschätzung haben wir bewertet, wie sich die bestehende</p>	<p>there is even the risk that additional bureaucratic expenses will result in a lack of capacities when working on real security (e.g. important point human factors - here a differentiated and sometimes very individual approach is required, direct contact and exchange with employees is required, not feeding data acquisition systems).</p> <p>The administrative effort involved in running a railway is already very high. The increasing bureaucratic burden will cause the costs of the railway system to rise unilaterally and worsen the competitive situation of the railways. Any traffic that migrates to the streets as a result of the inevitable price increases or restrictions on supply causes the overall safety level in traffic to fall.</p> <p>That cannot be in the interests of Europe's ecological development.</p> <p>In summary, we state: Neither the “Green Deal” nor in the sense of the “EU Agenda for Better Legislation” can give reasons for the implementation of this CSM from the area of European railway safety, European events in rail traffic and the draft regulation itself ASLP can be derived.</p>
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			<p>Situation durch eine Einführung der CSM ASLP ändern würde:</p> <ul style="list-style-type: none"> <li>- deutliche Ausweitung der Zahl der Ereignisarten im Vergleich zu den bisher bestehenden und bewährten Definitionen, was letztlich zu Handlungsunsicherheiten bei der Eingabe und Auswertung führen wird (natürlich auch Aufwand bedeutet)</li> <li>- (europaweiter) Vergleich der Eisenbahnen auf Basis der gemeldeten Daten; Ein Vergleich der Eisenbahnunternehmen national und international ist auf Grund des unterschiedlichen Umfangs der Geschäftstätigkeit ohne Leistungskennzahlen nicht aussagekräftig bzw. zielführend, in der hier beschriebenen Form führt ein Vergleich der Eisenbahnunternehmen zu Wettbewerbsverzerrungen.</li> <li>- Auskunft zu vorhandenen Daten; Die Datenweitergabe an externe Stellen außerhalb einer bestehenden rechtlichen Grundlage wird sehr kritisch gesehen; die Eisenbahnunternehmen haben keinen Einfluß auf die Verwendung der Daten (vgl. Erwägungsgrund Nr. 16)</li> <li>- Aufwand personell und technisch; zur Umsetzung der Anforderungen müssen die Eisenbahnunternehmen die bestehenden Systeme zur Ereigniserfassung und -untersuchung umfangreich modifizieren, was hohe finanzielle und auch zeitliche Aufwände für Programmierung etc. erfordert.</li> </ul>	<p>In addition to this basic assessment, we assessed how the existing situation would change through the introduction of the CSM ASLP:</p> <ul style="list-style-type: none"> <li>- Significant expansion of the number of event types compared to the previously existing and proven definitions, which will ultimately lead to uncertainties in the input and evaluation (of course also means effort)</li> <li>- (Europe-wide) comparison of the railways on the basis of the reported data; A comparison of railway companies nationally and internationally is not meaningful or expedient due to the different scope of business activities without performance indicators; in the form described here, a comparison of railway companies leads to distortions of competition.</li> <li>- information on existing data; The transfer of data to external bodies outside of an existing legal basis is viewed very critically; the railway companies have no influence on the use of the data (see recital 16)</li> </ul>
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				<p>Google translation</p> <p>The Association of German Transport Companies e. V. (VDV) is the industry association for public transport and railways in Germany. We represent over 600 member companies, including well over 200 railways. In terms of transport performance, we represent over 90% of rail freight transport in Germany and over 80% of rail passenger transport in Germany. At the railway infrastructure companies, we represent over 90% of the route length of the railway infrastructure in Germany.</p> <p>The characteristic “safest means of land transport” is both an award and an obligation for the railways. The railways traditionally put great effort into maintaining and continuously developing the level of safety. The railways have set up an SMS for this purpose, which is checked and monitored by the competent authority (or the</p>	<p>NWC</p> <p>NWC</p>	<p>- Personnel and technical effort; To implement the requirements, the railway companies have to extensively modify the existing systems for event recording and investigation, which requires high financial and time expenditure for programming, etc</p> <p>§§ end of google translation §§</p> <p>Noted</p> <p>Noted</p>
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			<p>competent authorities). The railways are working on the continuous development and improvement of the SMS in accordance with the existing legal obligations. This helps to maintain and - where possible - to increase security. In this context, the Ril. (EU) 2016/798.</p> <p>ERA and the national safety authorities are also working towards the common goal of strengthening the safety of rail traffic. In this respect, we can at least partially understand the intention of the submitted draft of the “CSM ASLP” and support it in principle. The availability of information and the exchange of information about dangerous events, in particular with ERA and the other authorities, are both useful and necessary for maintaining and improving the level of <i>safety</i>.</p> <p>However, the exchange of safety-relevant information between the railways and between the railways and the ECM is already legally regulated and practiced. In any case, this exchange</p>	<p>NWC</p> <p>NWC</p>	<p>Noted</p> <p>Noted.</p> <p>This is why in addition to the collection of data, the CSM ASLP introduces the Group of Analysts and all the processed</p>
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				<p>of information cannot be reduced to the exchange of data. The exchange of well-founded information is important in each case. There are, for example, a number of national and international specialist bodies for this purpose.</p> <p>We consider the present draft of the CSM ASLP and the measures contained therein to be unsuitable, in particular far too expensive. We fundamentally support that the collection of data should be computer-supported in the future. Furthermore, we consider it necessary that the definitions of the data to be reported should be harmonized between the ERA, the national safety authorities, the national accident investigation authorities and the statistical authorities.</p> <p>For the draft CSM ASLP, a satisfactory cost-benefit ratio has neither been definitively proven nor obvious. The railways' workload will increase significantly even in a Member State with a functioning national reporting system. The CSM-ASLP requires much higher and more in-depth reporting than requested by other CSMS. At the same time, the usefulness of reporting is low and in most cases close to zero.</p>	<p>NWC</p> <p>NWC</p>	<p>necessary to accompany collective learning, including for capitalizing on possible other groups inputs.</p> <p>The Impact Assessment has been very detailed and the CSM ASLP has been design to minimise the effort to be produced for achieving the Requested elements of the Mandate.</p> <p>As a result the CSM IA is positive.</p> <p>The CSM is setting the harmonised rules, it is expected that with the help of the GoA, NSAs and NIBs can also benefits from the CSM ASLP and further harmonised their practices as well.</p> <p>During all the development ERA has taken into account all the inputs from the working party concerning the IA.</p> <p>In many places the IA is very conservative – maximizing the costs – and taking into account reasonable benefits.</p> <p>The IA is still positive using this conservative approach.</p> <p>It is incorrect to state that the CSM is requiring many elements in addition to existing legislation. CSM MO and</p>
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				<p>In our opinion, the present draft regulation will hardly make a contribution to strengthening interoperable rail traffic. Rather, it burdens the railways with a flood of reporting obligations and additional documentation obligations, which puts the railway system in a significantly worse position than other modes of transport.</p>	NWC	<p>CSM SMS are already requiring many elements that are only harmonised, structured and shared by the CSM ASLP.</p> <p>Noted</p>
				<p>The EU's "Green Deal" also calls for rail transport to be promoted. However, the present draft counteracts this by increasing bureaucratisation. We do not expect any added value for security from these requirements. On the contrary, there is even the risk that additional bureaucratic expenses will result in a lack of capacities when working on real security (e.g. important point human factors - here a differentiated and sometimes very individual approach is required, direct contact and exchange with employees is required, not feeding data acquisition systems).</p> <p>The administrative effort involved in running a railway is already very high. The increasing bureaucratic burden will cause the costs of the railway system to rise unilaterally and worsen the competitive situation of the railways. Any traffic that migrates to the streets as a result of the</p>	NWC	<p>The CSM ASLP aims at framing the collection and sharing of safety-relevant data that will be anyway required for the Digital and Green deal Agendas.</p> <p>The Smart and Sustainable Mobility Strategy is also asking for aligning the modes with close to zero fatalities by 2050 for all modes.</p> <p>The CSM ASLP is supporting each of these objectives.</p>

			<p>inevitable price increases or restrictions on supply causes the overall safety level in traffic to fall.</p> <p>That cannot be in the interests of Europe's ecological development.</p> <p>In summary, we state: Neither the “Green Deal” nor in the sense of the “EU Agenda for Better Legislation” can give reasons for the implementation of this CSM from the area of European railway safety, European events in rail traffic and the draft regulation itself ASLP can be derived.</p> <p>In addition to this basic assessment, we assessed how the existing situation would change through the introduction of the CSM ASLP:</p> <p>- Significant expansion of the number of event types compared to the previously existing and proven definitions, which will ultimately lead to uncertainties in the input and evaluation (of course also means effort)</p>	<p>NWC</p>	<p>In addition a genuine SERA cannot be achieved without further harmonisation.</p> <p>The CSM ASLP is also contributing to the practical implementation of improved Safety Culture in railways.</p> <p>EU Digital agenda is also applicable to railways and the semantic harmonisation is one of the steps required.</p> <p>The harmonisation and continuous improvement of the taxonomy established by the CSM ASLP will help the sector to collectively learn and is also contributively to sector digitalisation (side positive effect).</p> <p>It also enable the ‘Once only’ approach decided by ERA management board aiming at reporting information only</p>
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				<p>- (Europe-wide) comparison of the railways on the basis of the reported data; A comparison of railway companies nationally and internationally is not meaningful or expedient due to the different scope of business activities without performance indicators; in the form described here, a comparison of railway companies leads to distortions of competition.</p> <p>- information on existing data; The transfer of data to external bodies outside of an existing legal basis is viewed very critically; the railway companies have no influence on the use of the data (see recital 16)</p> <p>- Personnel and technical effort; To implement the requirements, the railway companies have to extensively modify the existing systems for event recording and investigation, which requires high financial and time expenditure for programming, etc</p>	<p>NWC</p> <p>NWC</p>	<p>once when possible between systems and thus reducing sector’s effort.</p> <p>The IA has taken into account different company profile and conclude on a positive impact.</p> <p>The CSM ASLP is assessing companies, it is not aiming at comparing individual companies with each other.</p> <p>We do not see evidence of competition distortion.</p> <p>Data relating to individual companies will be used within the limits already imposed to EU railway actors. This is clearly indicated in Article 7.15.</p> <p>The required collection of information is limited to information that are to be considered already by the operators. It was conformed in the WP discussion that a large part of information required is already available in companies. However we agree that those information may not be all ready for harmonised and structured sharing.</p> <p>The harmonisation and sharing cost are counted in the IA, which is positive. The modifications of the operators systems is also counted.</p>
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<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>
2	Entire Document	G / P	VDV	<p>Wir kritisieren, dass das laufende Stellungnahmeverfahren zum Entwurf der CSM ASLP ausschließlich in englischer Sprache veröffentlicht worden ist. Die grundlegenden Anmerkungen des VDV haben wir in deutscher Sprache abgefasst. Für die weiteren, inhaltlichen Punkte wechseln wir in die englische Sprache, um der ERA die Bearbeitung zu erleichtern.</p> <p>§§ Google traduction §§</p> <p>We criticize the fact that the current comment procedure on the draft CSM ASLP has only been published in English. We have drawn up the basic remarks of the VDV in German. For the other content-related points, we will switch to English in order to make processing easier for ERA.</p>	NWC	Noted

3	Entire Document	G	VDV, supporting CER's #1	<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 NSAs) will be more effective to reach this objective.</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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				<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 cause a huge workload without having the benefit of increasing safety. We propose to start</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>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 be more effective than an assessment at national level.</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.</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> <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</p>
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N°	Reference (e.g. Art, §)	Type	Reviewer	Reviewer's Comments, Questions, Proposals	Reply	Proposal for the correction or justification for the rejection
				<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>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>
4	Recital (3)	G / U / P	VDV	<p>The obligation of RUs and IMs to “achieve their business objectives in a continuously improved safe manner” is existing in law since more than 100 years and has been laid down in EU law at the latest in the “Safety Directive” 2004/49. So may you please provide evidence why now a CSM ASLP is proposed to “provide assistance” in this field?</p> <p>Proposal: Delete or change this recital.</p>	NWC	<p>This is a request of the Mandate that has been voted by EU MS and the Mandate is binding for the Agency.</p>
5	Recital (5)	G	VDV	<p>As long as there is no harmonised safety level there is no need to have a harmonised assessment of the safety level.</p> <p>We think it would be sufficient to underline in this recital the importance of harmonised definitions.</p>	NWC	<p>Harmonisation process is requested by the Mandate which is binding for the Agency.</p> <p>On the contrary is the safety level would be harmonised in EU what would be the point to assess the same level for each operator?</p> <p>One clear advantage of a harmonised assessment (based on harmonised definitions) will be to support the identification of weak points and to better target improvement actions.</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>
6	Recitals (6) + (7)	U	VDV	When reading these recitals (6) + (7) the reader may get the impression that today no collective learning is existing. But there is. Further more a high number of ideas, proposals, techniques etc. are existing to improve the level of safety. But the realisation takes time. So what additional learning is expected here?	NWC	The recitals 6 and 7 indicate why harmonisation and structuration of information will help collective learning.  They do not state that collective learning is not existing.
7	Recital (12)	G	VDV	The collective learning cannot be narrowed only the analysis of collected data.	NWC	This recital indicates 'collective learning would be strengthened'.  It means that the GoA is expected to reinforce collective learning, not to limit it.  Also the aims of this group is indicated in very broad terms "overall objective of contributing to the systemic and efficient development of the Union railway system"
8	Recital (15)	G	VDV	This recital is very similar to recital (7) of (EU) 2018/762. We think the handling of this question in CSM RA is sufficient.	NWC	You indicate the CSM SMS recital that is concerning positive safety culture in general.  The recital 15 of CSM ASLP is concerning the protection of staff reporting safety relevant information in particular, it is notably to ensure respecting EU legislation on the protection of personal data.  The link you make with CSM RA is unclear to us.

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9	Whereas 15	U/P	VDV supporting CER's #4	<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	<p>The proposal is to allow this possibility.</p> <p>The Agency / MS cannot exclude individual person from requiring/sending information relating to the CSM ASLP scope.</p> <p>For this reason, it is better if those persons can use the proposed structured reporting, reason why we find useful to include them in the scope.</p>
10	Recital (25)	G	VDV	<p>It should be a general principle of law making to have no parallel provisions in different regulations. (EU) 2018/762, Annex 1, point 7.2.2 is providing information on safety culture.</p>	NWC	<p>Recital (25) is not a provision, it is setting the philosophy and the aims, in general.</p> <p>It is not a duplicated provision.</p>
11	Recitals (25) / general	G	VDV supporting CER's #3	<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>

N°	Reference (e.g. Art, §)	Type	Reviewer	Reviewer's Comments, Questions, Proposals	Reply	Proposal for the correction or justification for the rejection
12	Art 2	P	VDV supporting CER's #9	<p>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)</p> <p><u>Additional remark by VDV:</u> Channels for observation by natural persons are out of scope of the railway law, that's general public order. The first address is the police or – if published – a dedicated channel of the IM / the RU directly.</p>	<p>NWC</p> <p>+D</p> <p>U</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> <p>The controlled process indicated in Annex VI do not allow for publishing those elements but require to inform the concerned RU / IM only.</p>
13	Art 3	P	VDV supporting CER's #10	<p>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).</p> <p><u>Additional remark by VDV:</u></p> <p>A full alignment of definitions used by NSAs and NIBs should be the logical consequence. – With explications to national circumstances where necessary.</p>	<p>A</p> <p>D</p>	<p>Final draft of the taxonomy clearly indicate which event type exactly correspond to the current CSI</p> <p>We agree and the CSM taxonomy already use categorisation fully consistent with Regulation 2020/573 applicable to NIB reports. The taxonomy allows for reporting ‘other’ non-categorised event type in order to improve the reporting quality (when necessary) and feed the taxonomy improvement by the GoA.</p>

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14	Art .3	P	VDV supporting CER's #12	<p>Cross reference to DIRECTIVE (EU) 2016/798 on railway safety missing for:</p> <ul style="list-style-type: none"> <li>(i) serious consequence event</li> <li>(ii) significant consequence event</li> </ul> <p>We propose to add the necessary cross references to DIRECTIVE (EU) 2016/798</p>	NWC	<p>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.</p> <p>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.</p>
15	Art. 4, § 1(a)	P	VDV supporting CER's #13	<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	<p>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.</p>

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16	Art. 4, § 1(b)	P	VDV supporting CER's #14	<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> <p><u>Additional remark by VDV:</u></p> <p>We think that the self estimation may be introduced at a later stage if ever.</p>	A	Supportive documents such as guidance and training materials will be made available.
17	Art. 4, § 1c	U	VDV supporting CER's #15	<p>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.</p>	A	Re-drafted Article 4 will clarify this directly in the main part of the CSM.



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20	Art. 4, § 2	U	VDV	From the text it is not clear from whom (RUs, IMs, ECM, other NSAs?) the named entities may request the review of data.	NWC	The roles of actors are not changed by the CSM ASLP (recital added to clarify this point). Therefore the NSA, TDG CA and Agency shall act in line with their pre-existing obligations and the CSM ASLP.  It is not necessary to repeat the obligations set to those actors in the CSM ASLP.
21	Art. 4, 5 (pag. 7, 8)	G	VDV supporting CER's #18	In the process of data collection / verification and assessment of safety levels and performances there is no real involvement of NSAs, which today perform the important role of supervision and regulation of safety at national level and of interface for the transmission of safety data from the National level (NOR) to the European level.  It is therefore necessary to define, at Member State level, in order to avoid even the same event being recorded and communicated by different subjects, a single entity who has the role of single point of contact and interface with the ERA for the data contained in the new European reporting system. This role should be covered by the NSAs, that should ensure the interface between the National and the European level.  <u>Additional remark by VDV</u>  Please consider also the reporting to the NIBs! No double or triple work & reporting for RUs and IMs.	NWC  NWC	The role of the NSAs (supervision) and the transmission of information as currently practiced through the NSA (indirect channel for the CSM ASLP) is not impacted by the CSM proposal.  The ISS is designed for avoiding multiple reporting (forwarding information between connected systems is not considered as multiple reporting but as sharing of information, as the operator report only once).  The CSM ASLP allows the flow of data you mention (indirect channel) but also allows the application of the CSM in countries where no system is actually used (direct channel to ISS).

<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>
22	Art 5	U	VDV supporting CER's #19	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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23	Art 5	G	VDV	<p>Are there any existing and codified models of such an estimation of achieved performance in other modes of transport? If yes, have these existing models in other transport modes proven any success?</p> <p>We remind here to recital 5 of directive (EU) 2016/798.</p>	NWC	<p>For your information:</p> <ul style="list-style-type: none"> <li>- <i>Aviation: activities/models related to:</i> <ul style="list-style-type: none"> <li>o <i>Regulation 376/2014</i></li> <li>o <i>Regulation (EC) 996/2010</i></li> </ul> </li> <li>- <i>Maritime: interplay between Directives on</i> <ul style="list-style-type: none"> <li>o <i>Flag State (2009/21/EC)</i></li> <li>o <i>Accident investigation (2009/18/EC)</i></li> <li>o <i>Port State Control (2009/16/EC)</i></li> <li>o <i>Paris Memorandum of Understanding</i></li> </ul> </li> </ul> <p>Evaluation reports on these sets of legislations, including the analyses on their impact on safety, are found here.</p> <p><a href="https://ec.europa.eu/transport/facts-fundings/evaluations/reports-year_en">https://ec.europa.eu/transport/facts-fundings/evaluations/reports-year_en</a></p> <p>We also like to remind the reviewer that the GoA is set up in line with the spirit and message conveyed by recital 5 of the RSD.</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>
24	Art 5	P	VDV supporting CER's #20	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>
25	Art 5 para 4 / general	G	VDV supporting CER's #21	<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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26	Art. 5, § 4	P	VDV supporting CER's #22	<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> <p><u>Additional remark by VDV</u></p> <p>Please consider also the reporting to the NIBs! No double or triple work &amp; reporting for RUs and IMs.</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> <p>The ISS will allow every party to exchange information and share it between parties. Thanks to this mechanism there will be not double reporting required for the same dataset. This approach has also been adopted by ERA Management Board and called 'Once only / Linked Data' approach.</p>

N°	Reference (e.g. Art, §)	Type	Reviewer	Reviewer's Comments, Questions, Proposals	Reply	Proposal for the correction or justification for the rejection
27	Art. 5, § 4	U	VDV supporting CER's #23	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.	NWC	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.
28	Art. 5, § 4	U	VDV supporting CER's #24	<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> <p><u>Additional remark by VDV</u></p> <p>Would there be consequences (which?) in case of lower safety level in comparison of yearly figures of this operator? Are there positive consequences for RUs/IMs with high performance?</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> <p>The potential negative consequences are primarily to be considered by the NSA in its role of supervising authority as defined by RSD.</p> <p>On the positive side, it means that those operators performing better, will be better placed to fulfil the objectives of the Smart and Sustainable Mobility Strategy from the EU (see COM(2020) 789 final) which reads "<b>The safety and security of the transport system is paramount and should never be compromised and the EU should remain a world leader in this field. Continuous efforts with international, national and local authorities, stakeholders, and citizens is key if we are to meet our goal of zero fatalities from mobility</b>" (see Milestone 14: By 2050, the death toll for all modes of transport in the EU will be close to zero)</p>

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29	Art. 6, § 1	P	VDV supporting CER's #25	<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:</p> <ul style="list-style-type: none"> <li>— representatives nominated by the competent national authorities to participate in the working parties,</li> <li>— professionals from the railway sector selected by the Agency from the list referred to in paragraph</li> </ul> <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>
30	Art 6	U	VDV supporting CER's #26	<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.

<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>
31	Art 6	G	VDV	<p>How the “Group of Analysts” will be nominated/elected? For which period? Are there any criteria for being qualified as “Analyst”? What are the working rules and decision making principles of this “GoA”? How the sector – or the affected parts of the sector – will have the possibility to comment intended publications of the “GoA”?</p> <p>How the work of the “GoA” will be financed? Is there a secured budget for the next years? We remind that ERA just abolished the reimbursement rules for experts in the ERA working parties.</p> <p>To our experience the exchange of experience on European level is at every time very helpful. But a high number of decisions in RUs and IMs are still based on the national conditions which contain also contain non-railway law.</p>	NWC	<p>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..</p> <p>As a Working Party, the GoA will be subject to the same reimbursement rules.</p>

32	Art. 7 Information sharing system (pag. 9)	G	VDV supporting CER's #28	<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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N°	Reference (e.g. Art, §)	Type	Reviewer	Reviewer's Comments, Questions, Proposals	Reply	Proposal for the correction or justification for the rejection
33	Art 7	P	VDV supporting CER's #29	<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><u>Additional remark by VDV</u></p> <p>Please consider also the reporting to the NIBs! No double or triple work &amp; reporting for RUs and IMs.</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> <p>See answer to comment 26.</p>

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34	Art. 7, § 4	P	VDV supporting CER's #30	<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>
35	Art. 5, § 5	G	VDV	<p>Will the CSM ASLP have any influence to CSM Supervision and the daily work of NSAs? – Today, at least in Germany, the daily supervision work is not characterised by the use of IT (beyond e-mail) for information exchange between NSA and supervised objects. So would the possible existence of the here described ISS lead NSAs to collect their information via such a system and not via bi-lateral requests?</p>	NWC	<p>The operators are entitled to report via NSA system or directly to the ISS.</p> <p>The ISS will forward the information to the NSA system directly and immediately in case to operator chose the direct channel.</p> <p>Thus, as soon as the NSAs systems are connected to the ISS, NSAs will retrieve the data with the direct or indirect channel in a transparent way.</p>
36	Art. 7, § 14	G	VDV supporting CER's #31	<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 your comment 32.</p>

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37	Art. 9 Technical Support (pag. 10)	G	VDV supporting CER's #32	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>



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39	Annex 1	G	VDV supporting CER's #36	<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>

N°	Reference (e.g. Art, §)	Type	Reviewer	Reviewer's Comments, Questions, Proposals	Reply	Proposal for the correction or justification for the rejection
40	Annex 1	P	VDV	<p>The “occurrence location” is requested. In alternative to the proposed criteria we propose to allow the alternative use of</p> <ul style="list-style-type: none"> <li>- <i>Clear location coding of the IM (e. g. defined by “Ril 100” in Germany. By the way the IT system of German NIB is referring to this location identification scheme.</i></li> <li>- <i>International Location numbering</i></li> <li>- <i>TAF/TAP location ID</i></li> </ul>	D	<p>We could accept your proposal for the short term, however with the linked data approach it might not be necessary in the future.</p> <p>The ISS has a functional requirement which is the geographical (precise) coordinate to allow filtering the reports concerning a given occurrence.</p> <p>Sometime the possibility you mention are not precise enough for allowing this functionality.</p> <p>Thus we would propose to add a field for optional designation of the location, as you mention.</p>
41	Annex I, General Part, 3.1.2	P	VDV supporting CER's #37	<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>However the WP9 meeting discussions and the meeting with the NSA Network have indicated that from experience, in most of the case 3 days are sufficient.</p>

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42	Annex I Gen Part 3.2.2	P	VDV supporting CER's #38	<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>



N°	Reference (e.g. Art, §)	Type	Reviewer	Reviewer's Comments, Questions, Proposals	Reply	Proposal for the correction or justification for the rejection
44	Annex I reporting	U	VDV	The wording “Terminal” / “Terminal service” / “Freight terminal” are not defined.	NWC	<p>The RSD does not define it either but uses it as part of the network.</p> <p>“‘network’ means the lines, stations, terminals, and all kinds of fixed equipment needed to ensure safe and continuous operation of the Union rail system;”</p> <p>It can be understood that it is every part of the network not being lines or station.</p> <p>It is a clarification well suiting for a guide.</p>
45	Annex I reporting	G	VDV	The data on trespassers seems to be not comparable. There’s a definition of “trespasser” in directive (EU) 2016/798 but the definition of “railway premises where such presence is forbidden” is not harmonised across the EU, so a basic input to this definition varies from country to country.	D	This should be discussed by the GoA for proposing a better future definition.
46	Annex I reporting	G	VDV	Whilst today the RUs/IMs report yearly via the safety report the draft of CSM ASLP quadruples this frequency. This causes additional costs at the operators side without clear effect.	NWC	<p>There is no change in the elements to be reported. Only the analysis is made by quarter and yearly.</p> <p>The new analyses periods will give more insight on possible seasonal variations, <u>based on the same amount of occurrence</u> reported by operator.</p> <p>This is the added value to unbundle the reporting of the different occurrences and not as a number of occurrence over a year.</p> <p>Cost is counted in the IA.</p>

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47	Annex I Gen Part 5.	P	VDV supporting CER's #39	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	This will be provided by the ISS, including ID-number and language flexibility.  GoA can support way forward concrete ISS proposals in accordance with the CSM.
48	Annex I Gen Part 5.	G/P	VDV supporting CER's #40	<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>

<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 I, General Part, 5.2.2	P	VDV supporting CER's #41	A sharing deadline of 2 months is foreseen in the case of a detailed report.  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.	NWC	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.  Earliest date applicable.  This is supported in general by Article 7.11 of the CSM.
50	Annex I - Part C (pag. 32)	U	VDV supporting CER's #42	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.
51	Annex II, 1.4	U	VDV supporting CER's #43	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
52	Annex II, 3.4.	U	VDV supporting CER's #45	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 changed (area P,...) to be consistent with table in article 5 of appendix B.  Supportive documents will be provided

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53	Annex III Gen Part	U	VDV supporting CER's #46	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	<p>A guide will complement the CSM requirement, including examples.</p> <p>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.</p>
54	Annex III	G	VDV	<p>Annex III sets high expectations in the competence of the personal performing this task. This causes block costs which will be more disadvantageous for medium and small RUs and IMs.</p> <p>In other transport modes no such requirements are existing, despite these transport modes are less safe in general.</p>	NWC	<p>In any transport mode the prevention of reoccurrence of accidents through the understanding of scenarios is an objective, even if it can take different forms for historical reasons.</p> <p>It is also a Strategic objective pursued by the EU for all modes (see also comments 23 and 28).</p> <p>The issue of costs and benefits linked to the CSM ASLP is considered in the impact assessment. Particular attention is paid in the impact assessment to the experience from other safety-critical industries (e.g. aviation and nuclear) as well as relevant studies in the railway sector.</p> <p>From an impact assessment perspective importance is given to how to optimise the scope of the reporting in terms of benefits compared to costs. In particular, it is relevant to highlight that the CSM ASLP will be introduced using a phased approach. This will allow experience to be gained for a limited reporting scope only while only going further in terms of reporting scope based on robust justification.</p> <p>The particular issues for small and medium sized RUs will be addressed as part of the final impact assessment.</p>

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55	Annex III (pag. 33-47)	G	VDV supporting CER's #48	<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	<p>See answer to comment 54. Moreover, it is noted that any significant reporting requirements will be helped by the information sharing system.</p> <p>The ISS and its well-structured information management will contribute reduce the reporting costs for the entities responsible for reporting.</p> <p>+ see also answer to comment 61</p>

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56	Annex IV p.to 6 (pag. 51)  Annex V p.to. 5 (pag. 55)	G	VDV supporting CER's #49	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.

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57	Annex V, 7.	P	VDV supporting CER's #50	<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. 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 he 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>
58	Annex VI Part B 1.2	P	VDV supporting CER's #51	<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 VDV #12.</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. This point was already discussed at RISC meeting and did not lead to the request to remove it for the CSM proposal.</p>

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59	Annex VI	G	VDV	In Annex VI part B ECMs are mentioned, but they are not mentioned in Art. 3 & 4 of the drafted regulation itself. This is not consistent. It remains unclear if and how they are in the scope.	NWC	Art 3 and 4 are clear no specific requirement is added in the CSM ASLP for ECMs. The mandate excludes them from the scope.  However ECM can always report in accordance with article 2 on voluntary basis, as this is allowed for any entity.
60	Appendix A Part A	P	VDV supporting CER's #52	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	R	The investigation of root cause of accident is a basic element for preventing reoccurrence.  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).  In addition, the CSM mandate request an harmonised method to learn collectively on causes.  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. 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.

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61	Appendix A, Part A (Taxonomy)	G	VDV supporting CER's #53	<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>

<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>
62	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	VDV supporting CER's #54	<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>The safety level assessment concerns data covered under 'Simple Reporting' (Annex IV, section 4.1), which does not include A-7.</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>

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63.	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	VDV supporting CER's #55	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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66	Appendix B	U	VDV supporting CER's #58	<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, as explained in App. B article 5 is to provide a tool for the sector to improve the SMS of the operators, with a focus on the management of RCM:</p> <ul style="list-style-type: none"> <li>• <i>For the operators: helping them to self-assess their level of safety performance 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>
67	APPENDIX B  <b>Technical Support Documentation</b>  <b>Article 3</b> on the Railway operators' self-estimation of safety performance	U	VDV supporting CER's #59	(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.
68	Appendix C	P	VDV supporting CER's #60	A description is needed to understand this appendix C. Please provide a description.	NWC	Appendix C will be further developed with the GoA and will be available in due time for the corresponding mandatory implementation phase.  See also comment 56.

<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>
69	Appendix D	P	VDV supporting CER's #61	A description is needed to understand this appendix D. Please provide a description.	NWC	Appendix D will be further developed with the GoA and will be available in due time for the corresponding mandatory implementation phase.  See also comment 56.

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

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