

Making the railway system
work better for society.

Light Impact Assessment

Operations and traffic management TSI

*Acceptable Means of Compliance on safety of load, of passengers,
and of checks and tests before departure (AMOCs)*

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1. Context and problem definition**1.1. Problem and problem drivers**

Operating railway services entails a number of operational and safety risks. According to the Railway Safety Directive (EU) 2016/798 and Regulation (EU) 2018/762 Common Safety Methods on Safety Management Systems, railway undertakings (RUs) have to identify, assess, eventually mitigate, monitor and review continually their own operational risks. They shall also manage their operations in accordance with Commission Implementing Regulation (EU) 2019/773 Technical Specifications for Interoperability for the Operations and Traffic Management (TSI OPE). This legislation provides among other things some fundamental principles regarding the safety of load, the safety of passengers and the checks and tests before train departure including brakes and checks during operations.

Currently, according to Appendix I of TSI OPE, Member States should not prescribe national rules dealing in those three operational areas, as they are for the Safety Management Systems (SMS) to be managed. However, there still remains rules due to the lack of cleaning-up. This creates the potential of a non-harmonised, complex and fragmented legal framework which negatively affects interoperability and creates unnecessary extra costs on the rail sector. In accordance with Art. 19(1) of Regulation (EU) 2016/796, this initiative aims to reduce such complexity through the use of Acceptable Means of Compliance (AMOCs) for those stakeholders that wish voluntarily to opt in for them.

1.2. Evidence of the problem

In the areas of safety of load, safety of passengers and checks and tests, several Member States have currently in place national rules. This means that RUs wishing to operate in multiple countries through a safety certificate covering several areas of operations need to comply in their safety management systems with requirements that are complex and sometimes diverging from country to country.

1.3. Baseline scenario

The current legal framework of Appendix I of the TSI OPE does not have in scope provisions to harmonise rules regarding safety of load, safety of passengers and checks and tests. If no action is taken the problem described in this report will persist as Member States have no incentives neither EU legal requirements to harmonise their national rules in the aforementioned operational fields. Moreover, the problem may negatively evolve as in case of no action the applicable national legal frameworks can continuously evolve, with new or amended national rules should Member States decide to adopt them in accordance with Art. 14 of Directive (EU) 2016/797. Such unstable and varied legal framework can further negatively affect interoperability and continue to generate extra costs due to a lack of harmonised requirements for rail operations across the Union.

1.4. Main assumptions

Member States have adopted national rules on safety of load, safety of passengers and checks and tests which are not harmonised and this is considered harmful for the smooth running of rail operations. Industry players are required to comply with national safety requirements which generate diverse operational frameworks depending on the network where they operate. It is assumed also that national rules are unstable as they tend to change frequently over time thus increasing complexity and compliance costs especially for RUs. This results in a modal shift from rail to other less environmentally friendly modes of transport.

1.5. Stakeholders affected			
Railway undertakings (RUs)	<input checked="" type="checkbox"/>	Member States (MS)	<input checked="" type="checkbox"/>
Infrastructure managers (IMs)	<input type="checkbox"/>	Third Countries	<input type="checkbox"/>
Manufacturers	<input type="checkbox"/>	National safety authorities (NSA)	<input checked="" type="checkbox"/>
Keepers	<input type="checkbox"/>	European Commission (EC)	<input type="checkbox"/>
Entity in Charge of Maintenance (ECM)	<input type="checkbox"/>	European Union Agency for Railways (ERA)	<input checked="" type="checkbox"/>
Notified Bodies (NoBo)	<input type="checkbox"/>	Citizens living nearby railway tracks	<input type="checkbox"/>
Associations	<input type="checkbox"/>	Persons with reduced mobility (PRM)	<input type="checkbox"/>
Shippers	<input checked="" type="checkbox"/>	Passengers	<input checked="" type="checkbox"/>
Ticket vendors	<input type="checkbox"/>	Railway staff	<input checked="" type="checkbox"/>
<p>The stakeholders’ ecosystem includes industry and institutional stakeholders directly affected by the initiative as well as other stakeholders such as shippers and passengers that are indirectly affected. The geographical coverage includes potentially the entire Single European Railway Area subject to the TSI however, being AMOCs a voluntary scheme and not an EU legal requirement, it is not possible to define upfront a clear geographical coverage of the initiative.</p>			
1.6. Subsidiarity and proportionality			
<p>The problem is to be addressed at EU level since, as per the baseline scenario, the current situation of national rules adopted by Member States generate a suboptimal situation for rail interoperability. At the same time, this initiative is proportionate given that AMOCs are a voluntary scheme as per Art. 2(33) of Directive (EU) 2016/797 and do not impose a change of Member States’ legal frameworks. AMOCs only provide additional and harmonised means of compliance for those stakeholders wishing to make use of them.</p>			

2. Objectives
<p>2.1. Specific objectives</p> <p>AMOCs’ aim to provide a new, alternative, harmonised and flexible way to comply with the requirements of the TSI OPE and with the other relevant requirements in the fields of safety in scope of this initiative. Compared to the baseline scenario, stakeholders will have the possibility to opt in the use of AMOCs by adapting their safety management system and operations to harmonised principles instead of diverse national rules. This future scenario will allow, while maintaining levels of safety and relevant liability of the concerned actors, a simplification of the legal framework which will positively impact interoperability and therefore the competitiveness of rail transport.</p> <p>AMOCs are also considered flexible since they could be entirely or partially applicable to the RUs’ operational context, should they be active in all or only some market segments such as transport of passengers, freight, dangerous goods. This initiative aims also to provide a legal basis to operational procedures developed by the Agency together with the sector and by leveraging on specific national good practices. The AMOC on safety of passengers is the result of an experience in France, the AMOC on safety</p>

of load is the result of work done within the UIC¹ and the AMOC on checks and tests is based on valuable inputs received from the UIC-XRail studies and the association VDV. Furthermore, in order to provide stability to the operational framework of those stakeholders choosing to opt in for the AMOCs, this initiative brings the strong added value that the application of current, new or modified national rules in the fields covered by the AMOCs will be restricted. In fact, in accordance with Art. 2(33) of Directive (EU) 2016/797, the use of AMOCs is considered as sufficient to comply with the essential requirements. Therefore, as per Art. 14(8) of Directive (EU) 2016/797, should a Member State require a RU to comply with national rules, appropriate evidence shall be provided by the national authorities in order to demonstrate why a higher degree of risk control than AMOCs is necessary.

3. Options

3.1. List of options

Option 0 is the baseline scenario where AMOCs are not adopted and stakeholders have to continue to comply with non harmonised and unstable national rules.

Option 1 is the sole alternative option and consists in the adoption of the AMOCs as an Agency's opinion in accordance with Art. 19(1)(d) of Regulation (EU) 2016/796.

No other options have been assessed given that this impact assessment considers the adoption of the AMOCs in block without possible amendments or deviations. This is justified given that AMOCs are voluntary and stakeholders are free not to make use of them while continuing to be compliant to the legal framework as per Option 0. The two options are in fact not exclusive since Option 0 will continue to remain available in the short-term as Option 1 is only adding a second possibility for stakeholders to ensure compliance. However, it is foreseen that non-harmonised rules in the fields of the AMOCs will be removed in the near future.

¹ UIC Loading Guidelines Code of practice for the loading and securing of goods on railway wagons, Volume 1 and 2 (2020) and EN 16860 Requirements and general principles for securing payload in rail freight transport

4. Impacts of the options			
4.1. Qualitative analysis			
Stakeholder assessment			
Option 0 (Baseline)			
Category of stakeholder	Impact type	Description	Overall Impact
RUs	Positive	RUs with cross-border operations limited to two MS or with purely domestic operations may be rather neutral and continue business as usual to apply the existing national rules in the fields covered by the AMOCs.	Very negative
	Negative	They are faced with important complexity given that their safety management system needs to be adapted to the national rules of all MS where they wish to operate. This situation generates important compliance costs, including for the issuance of safety certificates, and it negatively affects the competitiveness of rail transport.	
MS	Positive	MS authorities continue business as usual their regulatory tasks and can fairly easily impose new or modified national rules applicable to all stakeholders active in their networks according to Art. 8(3) of Directive (EU) 2016/798.	Neutral
	Negative	N/A	
NSA	Positive	They continue business as usual their oversight and approval tasks.	Rather negative
	Negative	They need to check compliance with national rules of all RUs wishing to operate on the network. When RUs have operations in multiple MS and their safety management system needs to comply with multiple applicable national rules, the compliance check may be particularly cumbersome and resource-intensive. Moreover, RUs may expand the scope of their operations often thus resulting in frequent requests of extension of areas of operations of their safety certificates.	
Passengers	Positive	N/A	Very negative
	Negative	The offer of cross-border trains is limited, trains are slow in crossing borders and ticket prices tend to be negatively influenced by the compliance costs that RUs have to face in order to be compliant for operations in multiple MS.	
Railway staff	Positive	They continue business as usual their safety-related tasks.	Rather negative
	Negative	They are required to apply safety-related tasks by following their RUs' safety management system which is based on a national legal framework which can be complex. In case of staff dealing with cross-border operations, they need to be trained and aware of diverging requirements between MS.	
Shippers	Positive	N/A	Very negative
	Negative	The offer of cross-border trains is limited, trains are slow in crossing borders and rail transport costs tend to be negatively influenced by the compliance costs that RUs have to face in order to be compliant for operations in multiple MS.	
ERA	Positive	N/A	Very negative
	Negative	In order to issue Single Safety Certificates, the Agency has to spend significant effort in order to check, in cooperation with NSA, compliance with national rules across each and every MS of the Union. National rules are also often not properly notified thus making the assessment work particularly cumbersome.	

<i>Option 1</i>			
<i>Category of stakeholder</i>	<i>Impact type</i>	<i>Description</i>	<i>Overall Impact</i>
RUs	Positive	RUs can get the free choice if to opt for using AMOCs, a framework developed jointly with the rail sector. RUs can flexibly adapt their choice to the scope of their operations and achieve a more harmonised safety management system across all the MS they operate in. This will reduce complexity and compliance costs thus making rail transport more competitive. Moreover, also in a future outlook, RUs can potentially achieve a more stable legal framework since MS can introduce new or modified national rules in the fields of AMOCs only on the basis of a strong evidence which is to be assessed by ERA.	Very positive
	Negative	None. RUs are free to continue to apply the current baseline scenario of Option 0 since the AMOCs are voluntary.	
MS	Positive	MS do not need to adapt their national rules or legal framework to new OPE TSI requirements. AMOCs are a voluntary scheme.	Neutral
	Negative	In order to adopt or modify national rules, MS need to provide additional evidence to justify the new requirements as per Art. 8(3) of Directive (EU) 2016/798.	
NSA	Positive	AMOCs were developed together with the sector and they represent an important harmonisation and simplification for RUs. Therefore it is likely that many RUs wishing to operate on the network will opt in for the AMOCs. This will reduce the workload of NSA in checking compliance with national rules of each and every RU and allow them to replot their limited resources to other safety oversight tasks which can improve safety levels of the rail system.	Very positive
	Negative	The oversight work will need to evolve towards the new task of checking how the RUs' risk assessment process and safety management system is implementing the AMOCs. This is a new task for some NSA within the overall ongoing process of evolving safety oversight from verification of rules compliance to the check of the application of risk analysis processes. NSA staff may need initially some extra time in order to implement new processes related to the AMOCs.	
Passengers	Positive	RUs will be able to operate cross-border with less red tape. It is therefore likely that the offer of international trains will grow and trains may be able to cross border faster.	Very positive
	Negative	N/A	
Railway staff	Positive	The higher harmonisation that AMOCs will generate for RUs will allow more standardised checks to be performed across all the countries where RUs operate. Staff training will therefore be simplified and likely more effective since staff needs to be aware of less national requirements for cross-border rail operations.	Very positive
	Negative	It is possible that less staff will be needed to perform checks at border stations which may result in job losses at selected locations to perform certain tasks. This does not mean staff redundancies since staff can be redeployed where more useful/effective for RUs and/or be dedicated to other safety-critical tasks.	
Shippers	Positive	RUs will be able to operate cross-border with less red tape. It is therefore likely that the offer of international trains will grow and trains may be able to cross border faster.	Very positive
	Negative	N/A	

ERA	Positive	The Agency will be able to issue Single Safety Certificates faster since less effort needs to be spent in order to check, in cooperation with NSAs, compliance with national rules across each and every MS of the Union. ERA staff can also be redeployed to other critical tasks of the Agency which are currently not sufficiently staffed.	Very positive
	Negative	The oversight work will need to evolve towards the new task of checking how the RUs' risk assessment process and safety management system is implementing the AMOCs. ERA staff may need initially some extra time in order to implement new processes related to the AMOCs.	

Railway system assessment

The following table provides a quick overview of the impact of the options in key aspects for rail safety and interoperability.

	<i>Option 0 (baseline)</i>	<i>Option 1</i>
<i>Safety</i>	Rather low	Rather high
<i>Interoperability</i>	Very low	Very high
<i>Market access</i>	Very low	Very high
<i>Competitiveness</i>	Very low	Very high
<i>Effectiveness</i>	Rather low	Rather high

Coherency assessment

The AMOCs are an additional voluntary scheme therefore the current legal framework remains applicable and coherence is not impacted.

	<i>Option 0 (baseline)</i>	<i>Option 1</i>
<i>Coherence</i>	Neutral	Neutral

5. Comparison of options and preferred option

5.1. Comparison of options

Below a quick comparison of the options with impact on the key stakeholders as noted in 4. above is provided.

	<i>Option 0 (baseline)</i>				<i>Option 1</i>			
<i>Stakeholder impact</i>	RU	NSA	MS	ERA	RU	NSA	MS	ERA
<i>Effectiveness</i>	Rather low				Rather high			
<i>Coherence (optional)</i>	Neutral				Neutral			
<i>NPV (optional)</i>	N/A				N/A			
<i>B/C ratio (optional)</i>	N/A				N/A			

Colour legend	Very low/neg.	Rather low/neg.	Neutral	Rather high/pos.	Very high/pos.
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5.2. Preferred option			
<p>Option 1 is the preferred option and it is recommended to adopt the AMOCs. They are a scheme with high value given that they were developed together with the rail sector, they can increase interoperability and therefore competitiveness of rail transport and their adoption does not require an amendment of the TSI OPE. In addition they can be applied as a control measure to the RUs risk assessment. In fact, being the AMOCs voluntary, the TSI OPE and the national rules currently existing in the fields of safety of passengers, safety of load and checks and tests before departure do not need to be amended or repealed. Public bodies such as NSA and ERA can also refocus their human resources to other relevant tasks instead of dealing with national rules in the fields of the AMOCs. The benefits largely outperform the costs of implementing the AMOCs which are mostly related to an adaptation of the skills of NSA/ERA staff to this new scheme.</p>			
5.3. Risk assessment			
<p>This light impact assessment is not based on primary or secondary data but on desk research and expert opinion. The risk variables are therefore low risk for all options.</p>			
	Risk variables	Option 0	Option 1
	IA Inputs	Low risk	Low risk
	IA Outcomes	Low risk	Low risk

6. Monitoring and evaluation	
6.1. Monitoring indicators	
N/A	
6.2. Future evaluations	
AMOCs are a voluntary scheme and therefore for now future evaluations are not foreseen.	

7. Sources and methodology			
7.1. Sources			
Desk research	<input checked="" type="checkbox"/>	Interviews	<input type="checkbox"/>
ERA database	<input type="checkbox"/>	Meetings	<input checked="" type="checkbox"/>
External database	<input type="checkbox"/>	Survey	<input type="checkbox"/>
<p>The main sources for this impact assessment have been desk research of EU legislation relevant in the fields of the AMOCs, meetings with the TSI OPE working party and experts knowledge of in-house ERA staff.</p>			