



Moving Europe towards a sustainable and safe railway system without frontiers.

DECISION n° 338

of the Management Board of the European Union Agency for Railways on the recovery of cost of the Agency's assistance in the form of trainings and other appropriate activities and repealing Decisions, n° 189, n° 213, n°245, and n°321.

THE MANAGEMENT BOARD OF THE EUROPEAN UNION AGENCY FOR RAILWAYS,

Having regard to Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways (hereinafter referred to as "the Agency") and repealing Regulation (EC) No.881/2004 (hereinafter called "the Agency Regulation") and, in particular, Article 43 thereof.

Whereas:

- (1) Recital 31 of the Agency Regulation provides that *"proper and uniform understanding of legislation on railway safety and interoperability, implementation guides and recommendations of the Agency are preconditions for effective implementation of the railway acquis and the functioning of the railway market. Therefore, the Agency should actively engage in training and explanatory activities in that regard."*;
- (2) Article 43 of the Agency Regulation provides that *"(1) At the request of the Commission, Member States, candidate countries or the networks referred to in Article 38, the Agency shall engage in training and other appropriate activities concerning the application and explanation of railway safety and interoperability legislation and related products of the Agency such as registers, implementation guides and recommendations. (2) The nature and extent of the activities referred to in paragraph 1, including the possible impact on resources, shall be decided by the Management Board, and included in the Agency's programming document. The costs of such assistance shall be borne by the requesting parties unless otherwise agreed."*;
- (3) The Commission, networks of national safety authorities, investigating bodies and representative bodies as referred to in Article 38 of the Regulation, as well as the Member States and EU candidate countries, have the right to submit individual requests to the Agency under Article 43 of the Agency Regulation. In addition, the Agency should be able to receive requests by other persons or entities;
- (4) In line with Article 43 (2) of the Agency Regulation, it is necessary that the Agency recovers the costs of such assistance from the requesting parties. For this, the practical modalities shall be put in place;
- (5) Article 80 (2)(c) of the Agency Regulation provides that fees and charges shall be levied for the provision of services; the fees and charges payable in this regard shall reflect the actual cost of each individual provision;

- (6) Commission Implementing Regulation 2018/764 as amended provides at Article 2 (3) that *“The Agency shall levy charges for the provision of services other than those referred to in paragraph 1, requested by an applicant or any other person or entity”*. This Decision should define the calculation method for the pricing of those chargeable services other than those referred to in Article 2 (1) of Commission Implementing Regulation 2018/764 as amended;
- (7) This Decision should apply to trainings and other appropriate activities and set the charging mechanism for the Agency to recover the costs of such assistance requested under Article 43 of the Agency Regulation. Assistance requests should include ‘trainings’ and ‘other appropriate activities’.
- (8) The Agency has been recovering costs for chargeable activities of non-authority tasks in the past, as governed by MB Decisions n°189, n°213, and n°321, the latter expiring on 31st December 2023. This new MB Decision facilitates access for individual stakeholders to the trainings and other appropriate activities, improves the efficiency of the process and assures proper governance those activities. It should also enable the Agency to better respond to the requests for assistance from its stakeholders.

HAS DECIDED AS FOLLOWS:

Article 1

Definitions

For the purpose of this Decision:

- (a) ‘Training’ shall mean all formal learning activities leading to a targeted outcome. Formal learning activities are: learning that occurs in an organised and structured environment (in an education or training institution or on the job) and is explicitly designated as learning (in terms of objectives, time or resources). Formal learning is intentional from the learner’s point of view. It typically leads to validation and certification.¹
- (b) ‘Other appropriate activities’ shall mean, without prejudice to Article 43 (2) of the Agency Regulation, any other Agency activities, other than trainings, such as qualification of external trainings, trainers, or training organisations by the Agency and tailor-made assistance with the objective of supporting stakeholders with the understanding and application of EU railway safety and interoperability legislation.
- (c) ‘Chargeable services’ in the scope of this decision shall exclude those chargeable services from the authority tasks of the Agency as referred to in Article 2 (1) of the Commission Implementing Regulation 2018/764 as amended.

Article 2

Requests

- (1) The European Commission, the networks of national safety authorities, investigating bodies and representative bodies as referred in Article 38 of the Regulation, as well as the Member States and EU candidate countries have the right to submit:

¹ Source: Cedefop (55), https://www.cedefop.europa.eu/files/4106_en.pdf

- (a) individual requests to the Agency under Article 43 of the Agency Regulation, such as requests for a specific training on the application of a Common Safety Method or on the explanation of safety culture requirements and,
 - (b) other requests to the Agency under Article 43 of the Agency Regulation, such as requests answering to the sector's need for trainings on Safety Management Systems or on the application of TSIs. These shall be assessed against the Agency's programming document and compiled by the Agency in a list of trainings and other appropriate activities.
- (2) The Agency may offer its services directly to individual requestors, provided their requests correspond to the activities in the above-mentioned list. For activities not in the list referred to paragraph (1) (b) above, an impact assessment shall be submitted by the Agency to the Management Board for its approval.

Article 3

Governance

- (1) The Agency shall report regularly (at least annually) to the Management Board on the training services and other appropriate activities it provided.
- (2) All training services and other appropriate activities, and their respective charges, shall be published on the Agency website.

Article 4

Charging mechanism

- (1) The Agency shall levy charges for the provision of training services and other appropriate activities. The details of the calculation method of the amount are set out in the Annex to this Decision.
- (2) As provided for in Article 43 (2) of the Agency Regulation, the Executive Director may decide to apply lower charges or offer activities free of charge in duly justified cases, e.g., when they are covered by other funding sources and/or when NSAs have been involved in the preparation of those activities, by analogy with Recital (32) of the Agency Regulation.
- (3) The Agency shall put in place a workflow to facilitate registration and appropriate payment services.

Article 5

Repeals

- (1) Decision n°189 of the Management Board of the European Union Agency for Railways on the practical modalities relating to recovery of costs incurred by the Agency for its assistance to Member States, candidate countries and stakeholders on training and other appropriate activities, dated 28 November 2018, is repealed.
- (2) Decision n°213 of the Management Board of the European Union Agency for Railways on the practical modalities relating to recovery of costs incurred by the Agency for its assistance to Member States, candidate countries and stakeholders on training and other appropriate activities, dated 27 November 2019, is repealed.
- (3) Decision n°245 of the Management Board of the European Union Agency for Railways on the practical modalities relating to recovery of costs incurred by the Agency for its assistance to Member States,

candidate countries and stakeholders on training and other appropriate activities, dated 25 November 2020, is repealed.

- (4) Decision n°321 of the Management Board of the European Union Agency for Railways on the practical modalities relating to recovery of costs incurred by the Agency for its assistance to Member States, candidate countries and stakeholders on training and other appropriate activities, extending the validity of MB Decision 245 until 31.12.2023, dated June 2023, is repealed.

Article 6

Entry into force

This Decision shall enter into force on the day following its adoption. It shall be applicable from 1 January 2024. It shall be published on the Agency website.

For the Management Board
On 15/11/2023

Clio LIÉGEOIS
The Chairwoman

Annex: Calculation Method