

# RAILWAY SAFETY

**DIRECTIVE (EU) 2016/798**  
ENTRY INTO FORCE: 11/05/2016

## THE DIRECTIVE

The Railway Safety Directive lays down provisions to ensure the development and improvement of the safety of the Union rail system and improved access to the market for rail transport services by:

- harmonising the regulatory structure in the MS;
- defining responsibilities between the actors in the Union rail system;
- developing common safety targets and common safety methods with a view to gradually removing the need for national rules;
- setting out the principles for issuing, renewing, amending and restricting or revoking safety certificates and authorisations;
- requiring the establishment, for each MS, of a NSA and an accident and incident investigating body; and
- defining common principles for the management, regulation and supervision of railway safety.

## NATIONAL RULES IN THE FIELD OF SAFETY

National rules notified by **15 June 2016** pursuant to [Directive 2004/49/EC](#) shall apply if they:

- fall into one of the types identified under Annex II of this Directive; and
- comply with Union law, including in particular TSIs, CSTs and CSMs; and
- would not result in arbitrary discrimination or a disguised restriction on rail transport operation between MSs.

By **16 June 2018**, MSs shall review the national rules referred to above and repeal:

- any national rule which was not notified or which does not meet the criteria specified above;
- any national rule which has been made redundant by Union law, including in particular TSIs, CSTs and CSMs.

MSs may lay down new national rules pursuant to this Directive only in the following cases:

- where rules concerning existing safety methods are not covered by a CSM;
- where operating rules of the railway network are not yet covered by TSIs;
- as an urgent preventive measure, in particular following an accident or an incident;
- where an already notified rule needs to be revised;
- where rules concerning requirements in respect of staff executing safety-critical tasks, including selection criteria, physical and psychological fitness and vocational training are not yet covered by a TSI or by Directive 2007/59/EC of the European Parliament and of the Council

In the case of urgent preventive measures, MSs may adopt and apply a new rule immediately.

## SCOPE

It **applies** to the rail system in the MS, which may be broken down into subsystems for structural and functional areas. It covers safety requirements for the system as a whole, including the safe management of infrastructure and of traffic operation and the interaction between RUs, IMs and other actors in the Union rail system.

It **does not apply** to metros, trams and light rail vehicles, privately owned railway infrastructure, infrastructure and vehicles reserved for a strictly local, historical or touristic use. MS may decide to apply, where appropriate, provisions of this Directive to metros and other local systems in accordance with national law.

## COMMON SAFETY INDICATORS (CSIs)

CSIs assess whether systems comply with the common safety targets CSTs and to facilitate the monitoring of railway safety performance.

The main ones are the ones relating to:

- Accidents
- Dangerous goods
- Suicides
- Precursors of accidents
- Calculate the economic impact of accidents
- Technical safety of infrastructure and its implementation

## COMMON SAFETY TARGETS (CSTs)

CSTs are the minimum safety levels that are to be reached by the system as a whole, and where feasible, by different parts of the Union rail system. They may be expressed in terms of risk acceptance criteria or target safety levels and shall take into consideration, in particular:

- individual risks relating to passengers, staff, level crossing users and others, and, individual risks relating to trespassers;
- societal risks

They shall be revised at regular intervals, taking into account the global development of railway safety.

## COMMON SAFETY METHODS (CSMs)

CSMs are the methods describing the assessment of safety levels and achievement of safety targets and compliance with other safety requirements. They shall describe how the safety levels, the achievement of safety targets and compliance with other safety requirements are assessed by elaborating and defining:

- the risk evaluation and assessment methods
- the methods for assessing conformity with requirements in safety certificates and safety authorisations
- the methods for supervision to be applied by national safety authorities and the methods for monitoring to be applied by RUs, IMs and entities in charge of maintenance;
- the methods for assessing the safety level and the safety performance of railway operators at national and Union level;
- the methods for assessing the achievement of safety targets at national and Union level; and
- any other methods covering a process of the safety management system which need to be harmonised at Union level.

## ROLE OF IMs IN THE UNION RAIL SYSTEM IN DEVELOPING AND IMPROVING RAILWAY SAFETY

IMs shall:

- implement the necessary risk control measures
- take account in their safety management systems of the risks associated with the activities of other actors and third parties;
- ensure that their contractors implement risk control measures through the application of the CSMs for monitoring processes
- take any necessary corrective measure to tackle the safety risk identified;
- report those risks to the relevant parties involved

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## SAFETY MANAGEMENT SYSTEMS

IMs and RUs shall establish their respective safety management systems to ensure that the Union rail system can achieve at least the CSTs, that it is in conformity with the safety requirements laid down in TSIs, and that the relevant parts of CSMs and national rules notified are applied.

The safety management system shall be documented in all relevant parts and shall describe the distribution of responsibilities within the organisation of the IM or the RU. It shall show how control is ensured by the management on different levels, how staff and their representatives on all levels are involved and how continuous improvement of the safety management system is ensured.

It shall contain:

- A safety policy approved by the organisation's chief executive and communicated to all staff
- Qualitative and quantitative targets of the organisation for the maintenance and enhancement of safety, and plans and procedures for reaching them;
- Procedures to meet existing, new and altered technical and operational standards or other prescriptive conditions as laid down in TSIs, national rules, other relevant rules or authority decisions;
- Procedures to assure compliance with the standards and other prescriptive conditions throughout the life cycle of equipment and operations;
- Procedures and methods for identifying risks, carrying out risk evaluation and implementing risk-control measures whenever a change of operating conditions or the introduction of new material imposes new risks on the infrastructure or the man-machine-organisation interface;
- The provision of programmes for the training of staff and systems to ensure that the staff's competence is maintained and that tasks are carried out accordingly, including arrangements with regard to physical and psychological fitness;
- Arrangements for the provision of sufficient information within the organisation and, where appropriate, between organisations of the railway system;
- Procedures and formats for the documentation of safety information and designation of procedure for the configuration control of vital safety information;
- Procedures to ensure that accidents, incidents, near misses and other dangerous occurrences are reported, investigated and analysed and that necessary preventive measures are taken;
- The provision of actions plans, alerts and information in the event of an emergency, agreed upon with the appropriate public authorities; and
- Provisions for recurrent internal auditing of the safety management system.
- Any other element necessary to cover safety risks

The safety management system of any IM shall take into account the effects of operations by different RUs on the network and shall provide for all RUs to be able to operate in accordance with TSIs and national rules and with the conditions laid down in their safety certificate.

**Before 31 May of each year**, all IMs and RUs shall submit to the national safety authority an annual safety report concerning the preceding calendar year. It shall contain:

- information on how the organisation's corporate safety targets are met and the results of safety plans;
- an account of the development of national safety indicators, and of the CSIs, in so far as it is relevant to the reporting organisation;
- the results of internal safety auditing;
- observations on deficiencies and malfunctions of railway operations and infrastructure management that might be relevant for the national safety authority, including a summary of information provided by the relevant actors; and a report on the application of the relevant CSMs.

## SAFETY CERTIFICATION AND AUTHORISATION

### SINGLE SAFETY CERTIFICATE

Its purpose is to provide evidence that the railway undertaking concerned has established its safety management system and that it is able to operate safely in the intended area of operation.

The RU shall apply for the single safety certificate and ERA shall issue it and shall take full responsibility for any single safety certificates it issues. Where the area of operation is limited to one Member State, the national safety authority of that Member State may, under its own responsibility and when the applicant so requests, issue a single safety certificate.

### SAFETY AUTHORISATION OF IMs

In order to be allowed to manage and operate a rail infrastructure, the IM shall obtain a safety authorisation from the NSA in the MS where the rail infrastructure is located.

The safety authorisation shall comprise an authorisation confirming acceptance of the IM's safety management system, and shall include the procedures and provisions fulfilling the requirements necessary for the safe design, maintenance and operation of the railway infrastructure, including, where appropriate, the maintenance and operation of the traffic control and signalling system.

It shall be valid for 5 years and may be renewed upon application by the IM and it shall be wholly or partly revised whenever substantial changes are made to the infrastructure.

### COOPERATION BETWEEN ERA AND NSAs ON ISSUING SINGLE SAFETY CERTIFICATES

The cooperation agreements shall be specific or framework agreements, and shall involve one or more national safety authorities. They shall contain a detailed description of tasks and conditions for deliverables, the time limits applying to their delivery and an apportionment of the fees payable by the applicant.

### ACCESS TO TRAINING FACILITIES

MSs shall ensure that RUs and IMs and their staff performing safety-critical tasks have fair and non-discriminatory access to training facilities for train drivers and staff accompanying trains, whenever such training is necessary for operating services on their network.

### MAINTENANCE OF VEHICLES

The entity in charge of maintenance shall ensure that the vehicles for the maintenance of which it is in charge are in a safe state of running.

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## ACCIDENT AND INCIDENT INVESTIGATION

### OBLIGATION TO INVESTIGATE

MSs shall ensure that an investigation is carried out by the investigating body after any serious accident on the Union rail system. The objective of the investigation shall be to improve, where possible, railway safety and the prevention of accidents.

The investigating body may decide whether or not an investigation of such an accident or incident is to be undertaken. In making its decision it shall take into account:

- the seriousness of the accident or incident;
- whether it forms part of a series of accidents or incidents relevant to the system as a whole;
- its impact on railway safety;
- requests from IMs, RUs, the NSA or the MSs.

### INVESTIGATION PROCEDURE

An accident or incident shall be investigated by the investigating body of the MS in which it occurred. If it is not possible to establish in which MS it occurred or if it occurred on or close to a border installation between two MSs, the relevant investigating bodies shall agree which of them is to carry out the investigation or agree to carry it out in cooperation with each other. The other investigating body shall, in the first case, be allowed to participate in the investigation and fully share its results.

The investigation shall be carried out with as much openness as possible, so that all parties can be heard and can share the results. The relevant IM and RUs, the NSA, the Agency, victims and their relatives, owners of damaged property, manufacturers, the emergency services involved and representatives of staff and users shall be given an opportunity to provide relevant technical information in order to improve the quality of the investigation report.

The investigating body shall conclude its examinations at the accident site in the shortest possible time in order to enable the infrastructure manager to restore the infrastructure and open it to rail transport services as soon as possible.

### SAFETY RECOMMENDATIONS

A safety recommendation issued by an investigating body shall in no case create a presumption of blame or liability for an accident or incident.

MS, their NSA and the Agency shall, within the limits of their competence, take the necessary measures to ensure that the safety recommendations issued by the investigating bodies are duly taken into consideration, and, where appropriate, acted upon.

The Agency, the national safety authority and other authorities or bodies or, where appropriate, other MS to which recommendations have been addressed, shall report back periodically to the investigating body on measures that are taken or planned as a consequence of a given recommendation.

### STATUS OF INVESTIGATION

MSs shall define, within the framework of their respective legal system, the legal status of the investigation that is to enable the investigators-in-charge to carry out their task in the most efficient way and within the shortest time.

MSs shall ensure full cooperation by the authorities responsible for any judicial inquiry, and shall ensure that the investigators are given access as soon as possible to information and evidence relevant for the investigation

The Agency shall cooperate with the investigating body when the investigation involves vehicles authorised by them or railway undertakings certified by them.

### REPORTS

The reports shall state the objectives of the investigations and shall contain, where appropriate, safety recommendations.

The investigating body shall make public the final report in the shortest possible time and normally not later than 12 months after the date of the occurrence. If the final report cannot be made public within 12 months, the investigating body shall release an interim statement at least on each anniversary of the accident, detailing the progress of the investigation and any safety issues raised.

This reporting structure established by the EC shall include the following elements:

- a description of the occurrence and its background;
- a record of the investigations and inquires, including on the safety management system, the rules and regulations applied, the functioning of rolling stock and technical installations, the organisation of man power, the documentation on the operating system and previous occurrences of a similar character;
- analysis and conclusions with regard to the causes of the occurrence, including contributory factors, relating to:
  - actions taken by persons involved;
  - the condition of rolling stock or technical installations;
  - skills of the staff, procedures and maintenance;
  - the regulatory framework conditions; and
  - the application of the safety management system.

**By 30 September** every year the investigating body shall publish an annual report accounting for the investigations carried out in the preceding year, the safety recommendations that were issued and actions taken in accordance with recommendations issued previously.

### RECOMMENDATIONS AND OPINIONS OF ERA

The Agency shall provide recommendations and opinions in accordance with Article 13 of Regulation (EU) 2016/796 for the purpose of the application of this Directive. Those recommendations and opinions may be taken into account when the Union adopts legal acts pursuant to this Directive.