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work better for society.

RECOMMENDATION N. ERA-REC-115-2017/REC OF THE EUROPEAN UNION AGENCY FOR RAILWAYS

on

*THE REVISION OF THE COMMON SAFETY METHODS ON
CONFORMITY ASSESSMENT AND THE COMMON SAFETY METHOD
ON SUPERVISION*

THE EXECUTIVE DIRECTOR

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 and repealing Regulation (EC) No 881/2004, hereafter referred to as the 'Agency Regulation', and in particular Article 13 thereof,

Having regard to Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (Recast), hereafter referred to as the 'Railway Safety Directive', and in particular Article 6 thereof,

Having regard to Commission Implementing Decision of 1 September 2016 (C(2016) 5504 final) on a mandate to the European Union Agency for Railways for the revision of the common safety methods for conformity assessment and the common safety method for supervision and repealing Implementing Decision C(2014) 1649 final, hereafter referred to as the "Mandate",

Whereas:

1. One of the main objectives of Directive (EU) 2016/798 is to improve access to the market for rail transport services by defining common principles for the management, regulation and supervision of railway safety. The equal treatment of all railway undertakings is ensured by applying the same safety certification requirements throughout the European Union.
2. Starting from 16 June 2019, single safety certificates will be issued by the Agency or by the national safety authorities, as appropriate, to give evidence that the railway undertakings have established their safety management system as provided for in Article 9 of Directive (EU) 2016/798 and are capable of complying with the relevant requirements thereof. Similarly, safety authorisations will be issued by the national safety authorities to give evidence that the infrastructure managers have established their safety management system accordingly. The assessment of a safety management system to obtain a single safety certificate or a safety authorisation is based on a system level assessment of a railway undertaking's or infrastructure manager's capability to comply with all the requirements required to operate in general and on the specific network for which it is seeking a certificate or authorisation.
3. A similar system for the assessment and certification of safety management systems of railway undertakings and infrastructure managers is already in place, according to Directive 2004/49/EC on Safety on the Community's railways¹. On the basis of Article 6(1) of this Directive, the Commission adopted Commission Regulation (EU) No 1158/2010 on a common safety method for assessing conformity with the requirements for obtaining railway safety certificates² and Commission Regulation (EU) No 1169/2010 on a common safety method common safety method for assessing conformity with the requirements for obtaining a railway safety authorisation³. They provide a framework both for authorities issuing single safety certificates or safety authorisations to harmonise their decision-making process and criteria across the European Union and for railway undertakings and infrastructure managers applying for a single safety certificate or safety authorisation to establish a safety management system complying with Article 9 of Directive 2004/49/EC.

¹ OJ L 164, 30.4.2004, p. 44.

² OJ L 326, 10.12.2010, p. 11.

³ OJ L 327, 11.12.2010, p.13.

4. Building on the principles for supervision provided for in Annex IV of Regulation (EU) No 1158/2010 and Annex III of Regulation (EU) No 1169/2010, the Commission also adopted, on 16 November 2012, Regulation (EU) No 1077/2012 on a common safety method for supervision by national safety authorities after issuing a safety certificate or safety authorisation⁴. It provides a framework for national safety authorities to harmonise their approach to supervision across the European Union.
5. The revision of Commission Regulation (EU) No 1158/2010, Commission Regulation (EU) No 1169/2010 and Commission Regulation (EU) No 1077/2012 is necessary to ensure consistency with the evolution of the legal framework and more specifically with the migration towards a single safety certificate as established in Directive (EU) 2016/798 and in Regulation (EU) 2016/796.
6. The issuing of a safety certificate or safety authorisation does not imply or guarantee safety and does not diminish the duty and responsibility of the railway undertaking or infrastructure manager to ensure safety of their operation, nor does it transfer any part of that responsibility to the national safety authority. Consequently, each national safety authority needs to put in place arrangements to supervise whether the results outlined in the application for a single safety certificate or a safety authorisation are being delivered during operation after the award of the certificate or authorisation and all the necessary requirements are complied with on a continuous basis as required by Article 16(2)(d), Article 16(2)(j) and Article 17 of Directive (EU) 2016/798. This requires therefore the development of a post-award supervision regime in order to ensure a harmonised approach by national safety authorities in each individual Member State.
7. The CSMs are to be revised at regular intervals, taking into account the experience gained from their application and the global development of railway safety and with the objective of generally maintaining and, where reasonably practicable, continuously improving safety, in accordance with Article 6(5) of Directive (EU) 2016/798.
8. The Mandate given to the Agency for this revision work aims at further harmonising conformity assessment approaches among Member States, taking into account the feedback on the practical application and use of Commission Regulation (EU) No 1158/2010, Commission Regulation (EU) No 1169/2010 and Commission Regulation (EU) No 1077/2012 as well as other relevant sources. In particular, it is requested to improve the coordination between the Agency and the national safety authorities during the course of the assessment for obtaining single safety certificates, the cooperation between national safety authorities on supervision and the exchange of information between supervision and assessment activities.
9. The Agency proposes hereby to repeal the existing Commission Regulation (EU) No 1158/2010, Commission Regulation (EU) No 1169/2010 and Commission Regulation (EU) No 1077/2012 and to replace them by the proposed Regulations.
10. The proposed Regulations supplement the practical arrangements for issuing single safety certificates as referred to in Article 10(10) of Directive (EU) 2016/798.
11. The proposed Regulations have been developed in accordance with the Mandate and the relevant requirements of the Agency Regulation.

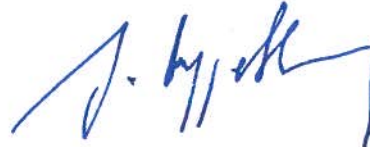
⁴ OJ L 320, 17.11.2012, p. 3.

HAS ADOPTED the following recommendation:

1. The Agency recommends that the Commission adopts the draft Commission Delegated Regulations included as Annexes to this Recommendation.

This recommendation is addressed to the European Commission.

Valenciennes, 9 March 2017



Josef DOPPELBAUER
Executive Director

Annexes:

1. Draft Commission Delegated Regulation on a common safety method for assessing conformity with the requirements for obtaining a railway single safety certificate and repealing Regulation (EU) No 1158/2010 and Annex I and Annex II of Regulation (EC) 653/2007
2. Draft Commission Delegated Regulation on a common safety method for assessing conformity with the requirements for obtaining a railway safety authorisation and repealing Regulation (EU) No 1169/2010
3. Draft Commission Delegated Regulation on a common safety method for supervision by national safety authorities after issuing a single safety certificate or safety authorisation and repealing Regulation (EU) No 1077/2012