

Directive (EU) 2016/798 of the European Parliament and of the Council
of 11 May 2016 on railway safety (recast) (Text with EEA relevance)

CHAPTER IV

NATIONAL SAFETY AUTHORITIES

Article 17

Supervision

1 National safety authorities shall oversee continued compliance with the legal obligation incumbent on railway undertakings and infrastructure managers to use a safety management system as referred to in Article 9.

For that purpose, the national safety authorities shall apply the principles set out in the relevant CSMs for supervision referred to in point (c) of Article 6(1), ensuring that supervision activities include, in particular, checking the application by railway undertakings and infrastructure managers of:

- a the safety management system to monitor its effectiveness;
- b the individual or partial elements of the safety management system, including operational activities, the supply of maintenance and material and the use of contractors to monitor their effectiveness; and
- c the relevant CSMs referred to in Article 6. The supervision activities relating to this point shall also apply to entities in charge of maintenance, where appropriate.

2 Railway undertakings shall inform the relevant national safety authorities at least 2 months before starting any new rail transport operation, in order to allow the latter to plan the supervision activities. Railway undertakings shall also provide a breakdown of the categories of staff and the types of vehicles.

3 The holder of a single safety certificate shall inform the competent national safety authorities without delay of any major changes to the information referred to in paragraph 2.

4 The monitoring of compliance with applicable working, driving and rest-time rules for train drivers shall be ensured by competent authorities designated by Member States. Where the monitoring of compliance is not ensured by national safety authorities, the competent authorities shall cooperate with the national safety authorities with a view to allowing the national safety authorities to fulfil their role of supervision of railway safety.

5 If a national safety authority finds that a holder of a single safety certificate no longer satisfies the conditions for certification, it shall ask the Agency to restrict or revoke that certificate. The Agency shall immediately inform all the competent national safety authorities. If the Agency decides to restrict or revoke the single safety certificate, it shall give reasons for its decision.

In the event of disagreement between the Agency and the national safety authority, the arbitration procedure indicated in Article 10(7) shall apply. If the result of that arbitration procedure is that the single safety certificate is to be neither restricted nor revoked, the temporary safety measures referred to in paragraph 6 of this Article shall be suspended.

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Where the national safety authority has itself issued the single safety certificate in accordance with Article 10(8), it may restrict or revoke the certificate, giving reasons for its decision, and shall inform the Agency.

The holder of a single safety certificate whose certificate has been restricted or revoked either by the Agency or by the national safety authority shall have the right to appeal in accordance with Article 10(12).

6 If, during supervision, a national safety authority identifies a serious safety risk, it may at any time apply temporary safety measures, including immediately restricting or suspending the relevant operations. If the single safety certificate was issued by the Agency, the national safety authority shall immediately inform the Agency thereof and provide supporting evidence for its decision.

If the Agency finds that the holder of a single safety certificate no longer satisfies the conditions for certification, it shall immediately restrict or revoke that certificate.

If the Agency finds that the measures applied by the national safety authority are disproportionate, it may ask the national safety authority to withdraw or adapt those measures. The Agency and the national safety authority shall cooperate with a view to reaching a mutually acceptable solution. Where necessary, this process shall also involve the railway undertaking. If the latter procedure fails, the decision of the national safety authority to apply temporary measures shall remain in force.

The decision of the national safety authority relating to temporary safety measures shall be subject to national judicial review as referred to in Article 18(3). In such a case, the temporary safety measures may apply until the end of the judicial review, without prejudice to paragraph 5.

If the duration of a temporary measure is longer than 3 months, the national safety authority shall ask the Agency to restrict or revoke the single safety certificate and the procedure set out in paragraph 5 shall apply.

7 The national safety authority shall supervise the trackside, control-command and signalling, energy and infrastructure subsystems and ensure that they are in compliance with the essential requirements. In the case of cross-border infrastructures, it will perform its activities of supervision in cooperation with other relevant national safety authorities. If the national safety authority finds that an infrastructure manager no longer satisfies the conditions for its safety authorisation, it shall restrict or revoke that authorisation, giving reasons for its decision.

8 When supervising the effectiveness of the safety management systems of infrastructure managers and railway undertakings, the national safety authorities may take into account the safety performance of actors as referred to in Article 4(4) of this Directive, and, where appropriate, the training centres referred to in Directive 2007/59/EC as long as their activities have an impact on railway safety. This paragraph applies without prejudice to the responsibility of the railway undertakings and infrastructure managers referred to in Article 4(3) of this Directive.

9 The national safety authorities of Member States where a railway undertaking operates shall cooperate in coordinating their supervision activities concerning that railway undertaking to ensure that any key information on the specific railway undertaking is shared, particularly on known risks and its safety performance. The national safety authority shall also share information with other relevant national safety authorities and the Agency if it finds that the railway undertaking is not taking the necessary risk control measures.

That cooperation shall ensure that the supervision has sufficient coverage and that the duplication of inspections and audits is avoided. The national safety authorities may develop a common supervision plan in order to ensure that audits and other inspections are carried out periodically, taking into account the type and extent of transport operations in each of the Member States concerned.

The Agency shall assist such coordination activities by developing guidelines.

10 National safety authorities may address notices to warn infrastructure managers and railway undertakings in cases of non-compliance with their obligations set out in paragraph 1.

11 National safety authorities shall use information gathered by the Agency during the assessment of the file referred to in point (a) of Article 10(5) for the purposes of supervision of a railway undertaking after issuing its single safety certificate. They shall use the information gathered during the process of safety authorisation in accordance with Article 12 for the purposes of supervision of the infrastructure manager.

12 For the purpose of renewing single safety certificates, the Agency, or the competent national safety authorities in the case of a safety certificate issued in accordance with Article 10(8), shall use information gathered during the supervision activities. For the purpose of renewing safety authorisations, the national safety authority shall also use information gathered during its supervision activities.

13 The Agency and the national safety authorities shall make the necessary arrangements to coordinate and ensure the full exchange of information referred to in paragraphs 10, 11 and 12.