

EN

EN

EN



EUROPEAN COMMISSION

Brussels, 12.10.2010
C(2010) 6931 final

COMMISSION DECISION

of 12.10.2010

**on a mandate to the European Railway Agency for the revision of the common safety
method on risk evaluation and assessment**

COMMISSION DECISION

of 12.10.2010

on a mandate to the European Railway Agency for the revision of the common safety method on risk evaluation and assessment

(Only the English text is authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive)¹, and in particular Article 6(4) thereof,

Whereas:

- (1) Under Article 6(4) of the Railway Safety Directive, common safety methods (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 the obligations on Member States. This mandate to the European Railway Agency concerns the revision of Commission Regulation (EC) No 352/2009 of 24 April 2009 on the adoption of a common safety method on risk evaluation and assessment as referred to in Article 6(3)(a) of Directive 2004/49/EC of the European Parliament and of the Council² on a common safety method on risk evaluation and assessment.
- (2) Under Article 9(4) of Regulation (EC) No 352/2009, the Agency is to submit a report to the Commission at the latest by 31 December 2011.
- (3) The provisions of this Decision are in accordance with the opinion of the Committee established in accordance with Article 27(1) of the Railway Safety Directive,

HAS ADOPTED THIS DECISION:

Article 1

The mandate for revising Commission Regulation (EC) No 352/2009 on a common safety method on risk evaluation and assessment, as set out in the Annex, is hereby adopted by the Commission.

¹ OJ L 164, 30.4.2004, p. 44.

² OJ L 108, 29.4.2009, p. 4.

Article 2

This Decision is addressed to the European Railway Agency.

Done at Brussels, 12.10.2010

For the Commission
Siim KALLAS
Vice-President

CERTIFIED COPY
For the Secretary - General

Jordi AYET PUIGARNAU
Director of the Registry

ANNEX

MANDATE TO THE EUROPEAN RAILWAY AGENCY

For the revision of the common safety method on risk evaluation and assessment

1. SUBJECT MATTER

This mandate to the European Railway Agency (hereinafter ‘the Agency’), as referred to in Article 6(2) of Directive 2004/49/EC (hereinafter ‘the Railway Safety Directive’), concerns the revision of Commission Regulation (EC) No 352/2009 on a common safety method on risk evaluation and assessment.

Under Article 6(4) of the Railway Safety Directive, common safety methods (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 the obligations on Member States.

Under Article 9(4) of Regulation (EC) No 352/2009, the Agency, with the assistance of the safety authorities, is to submit to the Commission, by 31 December 2011 at the latest, a report that includes:

- (a) an analysis of the experience with the application of the CSM on risk evaluation and assessment, including cases where the CSM has been applied by proposers on a voluntary basis before the relevant date of application provided for in Article 10 of Regulation (EC) No 352/2009;
- (b) an analysis of the experience of the proposers concerning the decisions related to the level of significance of the changes;
- (c) an analysis of the cases where codes of practice have been used, as described in section 2.3.8 of Annex I to the CSM;
- (d) an analysis of the overall effectiveness of the CSM.

2. TERMS OF REFERENCE

2.1. Scope of the revision of the CSM on risk evaluation and assessment

In addition to the results of the analyses referred to above, the revision of the CSM on risk evaluation and assessment will cover further developments in:

- the roles and the responsibilities of the assessment body referred to in Article 6 of Regulation (EC) No 352/2009, and its qualification requirements (by developing a recognition/accreditation scheme) according to its role in the CSM, with a view to improving clarity in order to avoid differing application across the Member States, taking into account the interfaces with existing EU authorisation/certification procedures in the railway sector;

- the risk acceptance criteria that could be used to assess the acceptability of a risk during explicit risk estimation and evaluation.

2.2. Consistency with other developments

The revision of the CSM on risk evaluation and assessment will be considered in relation to the development of the common safety indicators (CSIs), common safety targets (CSTs), other CSMs, technical specifications for interoperability (TSIs) and existing European standards.

2.3. Working method

The use of European standards conferring a presumption of conformity with the requirements of the Directive is not mandatory in drafting CSMs but will be considered. No explicit reference will be made to European standards unless required for legal or other reasons.

Where appropriate, the Agency will take into account the results of research projects, and those of any other state-of-the-art project or working group that has built a sufficient consensus among the players in the European railway sector.

2.4. Impact assessment

In accordance with the Commission Communication *Better Regulation for Growth and Jobs in the European Union* of 16 March 2005³ and with Article 6(4) of Regulation No 881/2004⁴ establishing a European Railway Agency (hereinafter ‘the Agency Regulation’), to facilitate the adoption and implementation of the measures proposed by the Agency, the Agency should carry out an impact assessment of its recommendations. The analysis must consider the social, environmental and economic impacts of the proposed measures.

3. EXECUTION OF THE MANDATE

3.1. Work programme

The Agency will execute this mandate by adapting the annual work programmes adopted by its Administrative Board under Article 25(2)(c) of the Agency Regulation, without prejudice to the decisions to be adopted by the Administrative Board.

The Agency will apply the working methods described in the Agency Regulation and in particular set up the necessary working groups with expertise from the rail sector organisations and the national safety authorities as set out in Article 3 of the Agency Regulation. It will furthermore regularly consult the network of national safety authorities set up under Article 9(1) of the Agency Regulation and Article 17(4) of the Railway Safety Directive, report to that network on the progress of work and submit working drafts for discussions.

³ Communication from the Commission to the Council and the European Parliament, *Better Regulation for Growth and Jobs in the European Union*, 16.3.2005, COM(2005) 97 final.

⁴ Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European railway agency (Agency Regulation) (OJ L 164, 30.4.2004, p. 1, corrected by OJ L 220, 21.6.2004, p. 3), as amended by Regulation (EC) No 1335/2008, OJ L 354, 31.12.2008, p. 51.

3.2. Deliverables and follow-up by the Commission and the Committee

The Agency will submit the report referred to in Article 9(4) of Regulation (EC) No 352/2009 to the Commission by 31 December 2011 at the latest.

The Agency will submit its final recommendation on the revision of the CSM on risk evaluation and assessment not later than 30 April 2012.

The format of the recommendation will be agreed between the relevant Commission departments and the Agency. The recommendation will be accompanied by a report that includes:

- the main conclusions of the report drafted under Article 9(4) of Regulation (EC) No 352/2009, including some worked examples of application of the Regulation;
- the results of the work of the relevant working groups and in particular the different solutions and alternatives discussed and the reasons for choosing the proposed solutions;
- the results of the consultations carried out within the network of the national safety authorities and in particular whether a consensus has been reached on the proposed solutions and, if not, the positions taken by Member State authorities that have opposed the recommendation or made other reservations;
- the results of the consultation of social partners and users under Articles 4 and 5 of the Agency Regulation, including the opinions expressed by the stakeholders;
- the results of the impact analyses carried out.

The results of the Agency's work will be presented to the Committee on a regular basis and the Agency may be called upon to provide explanations and additional details as necessary before the Committee. The Commission and the Committee may make any useful recommendation regarding the proposed methods.

In addition, at the Commission's request, the Agency will submit reports on the progress of work to the Commission. The progress reports will, in particular, analyse and explain the approach taken by the Agency and the difficulties encountered, and indicate any problem that may endanger the execution of this mandate or adherence to the timetable for adopting the final recommendation.