

European Railway Agency

**Recommendation
on**

**the revision of the common safety method on risk evaluation and assessment and
repealing Commission Regulation (EC) No 352/2009¹**

(ERA/REC/02-2012/SAF)

THE DIRECTOR,

Having regard to Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European Railway Agency² (hereafter the Agency) and in particular Article 6 thereof,

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)³, and in particular Article 6(4) thereof,

Having regard to the Commission Decision of 12 October 2010 (C(2010) 6931 final) concerning the mandate to the European Railway Agency for the revision of the Regulation (EC) No 352/2009 on a common safety method on risk evaluation and assessment (the mandate),

Whereas:

- (1) Directive 2004/49/EC aims to improve access to the market for rail transport services by defining common principles for the management, regulation and supervision of railway safety. Directive 2004/49/EC also provides a framework to be put in place to ensure equal treatment for all actors involved in the development and operation of the railway system through the application of harmonised methods for identifying, assessing and managing risks across the EU.
- (2) Based on a recommendation of the European Railway Agency (the 'Agency') on the first set of common safety methods (CSMs) (ERA-REC-02-2007-SAF) of 6 December 2007, the Commission adopted on 24 April 2009 Regulation (EC) No 352/2009 on the adoption of a common safety method on risk

¹ OJ L 108, 29.4.2009, p. 4.

² OJ L 164, 30.4.2004, p. 3

³ OJ L 164, 30.4.2004, p. 44.

evaluation and assessment as referred to in Article 6(3)(a) of Directive 2004/49/EC of the European Parliament and of the Council.

- (3) To enhance the mutual recognition of the application of Regulation (EC) No 352/2009 and of the results of the risk management process specified therein, the Agency developed additional requirements for the independent assessment body referred to in Article 6 of that Regulation.
- (4) The mandate asks that in addition to cover the results of the analysis by the Agency under Article 9(4) of Regulation (EC) 352/2009 of the overall effectiveness and experience with the application of that Regulation, the revision work shall cover further developments in the roles and the responsibilities of the assessment body referred to in Article 6 of that Regulation. The revision should also include the qualification requirements (by developing a recognition/accreditation scheme) of the assessment body 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. If feasible, the revision of Regulation (EC) No 352/2009 should also cover further developments in the risk acceptance criteria that could be used to assess the acceptability of a risk during explicit risk estimation and evaluation.
- (5) The Agency revised the existing Regulation (EC) 352/2009 to include the requirements for the accreditation/recognition and surveillance of the assessment body referred to in Article 6 of that Regulation necessary for achieving a similar quality of the independent assessment by any assessment body which fulfils the updated criteria in Annex II of the Appendix included to this Recommendation.
- (6) The proposed revision of Regulation (EC) 352/2009 has been developed in accordance with the relevant requirements of Regulation (EC) No 881/2004.

HAS ADOPTED the following recommendation:

Article 1
Content and Structure

1. The Agency recommends that the Commission adopts the draft Commission Regulation included as Appendix to this Recommendation:
Appendix – Commission Regulation (EC) No .../. of [...] on the common safety method on risk evaluation and assessment and repealing Commission Regulation (EC) No 352/2009.

Article 2
Revision

1. In accordance with the revision requirements contained in Article 6(4) of Directive 2004/49/EC, the Agency recommends that it reviews this common safety method based on the experience of its application, if necessary, based on a mandate from the Commission to the Agency.

This recommendation is addressed to the European Commission.

Valenciennes, 06/07/2012

Marcel VERSLYPE
Executive Director