

## RECOMMENDATION

of the Team for implementation of the action plan for improvement of the approach to risk-based safety management

**on the activities necessary to be implemented in the situation of managing transferred hazards**

### Date of issue

9 December 2022

### The Recommendation is addressed to

Proposers within the meaning of Article 3(11) of Regulation 402/2013<sup>1</sup>.

### Content of the Recommendation<sup>2</sup>

If the proposer transfers the hazards to another actor, it should be ensured that the actor accepting the hazard has assessed the risk and the adopted safety measures have been agreed by all parties concerned. The proposer cannot accept the change without making sure that all hazards - including those transferred - are properly managed and the associated risks are at an acceptable level.

### Related regulations

- Points 3 and 4 of Annex I to Regulation 402/2013,
- Article 17(1ba) and (1bb) of the Act on Railway Transport<sup>3</sup>,
- Article 4 of Regulation 1078/2012<sup>4</sup>.

### Issue description

For the proper management of hazards, it is necessary to precisely indicate the actor responsible for supervision over each hazard, while remembering about the principle of not going beyond the domain of operation (control) of the given actor.

Under Point 4.2 of Annex I to Regulation 402.2013, “all hazards and related safety requirements that cannot be controlled by one actor alone shall be communicated to another

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<sup>1</sup> Commission Implementing Regulation (EU) No 402/2013 of 30 April 2013 on the common safety method for risk evaluation and assessment and repealing Regulation (EC) No 352/2009 (O.J. EU L 121 of 03.05.2013, p. 8, as amended).

<sup>2</sup> This Recommendation applies to management of risk for railway traffic safety only. It does not apply to management of any other types of risk that may exist in railway transport operations (information security hazards, environmental hazards, etc.).

<sup>3</sup> Act on Railway Transport of 28 March 2003 (consolidated text: Journal of Laws of 2021, item 1984, as amended).

<sup>4</sup> Commission Regulation (EU) No 1078/2012 of 16 November 2012 on a common safety method for monitoring to be applied by railway undertakings, infrastructure managers after receiving a safety certificate or safety authorisation and by entities in charge of maintenance (O.J. EU L 320 of 17 November 2012, p. 8)

relevant actor in order to find jointly an adequate solution. The hazards registered in the hazard record of the actor who transfers them shall only be regarded as controlled when the evaluation of the risks associated with these hazards is made by the other actor and the solution is agreed by all concerned”.

The experience of the members of the Team shows that proposers often indicate another actor in the hazard records as the organization that is to manage the hazard. However, the decision to transfer the hazard is not followed by adequate further action, such as informing the other organization of the transfer of risk and obliging it to define and implement the necessary safety measures. In addition, there is no subsequent exchange of information between the actors which, in turn, leads to a lack of monitoring of the level of risk associated with the given hazard.

It should be noted that the proposer's obligation to cooperate with the actor to which the management of a given risk was transferred also results from the provisions of the Act on Railway Transport. Article 17(1bb)(1) of the Act on Railway Transport stipulates that manufacturers, entities in charge of maintenance, providers of services, materials and parts, keepers, contracting entities, consignors, consignees, loaders, unloaders, fillers, emptiers and railway undertakings are obliged to implement the necessary risk control measures, where appropriate in cooperation with each other and in cooperation with other entities.

The fact of joint supervision of a given hazard should be reflected in the hazard record of both the entity transferring the risk and the acquiring entity, through a cross, unambiguous indication of hazards from the record of one entity in the record of the other (e.g. by indicating the entity and the symbol (number) of the hazard).

Transferring a hazard to another entity does not mean renouncing responsibility for it. It is still the role of the proposer to supervise whether the safety requirements are met for all hazards.

The effectiveness of implemented safety measures must be constantly monitored. To this end, it is necessary to ensure effective exchange of information between stakeholders. This obligation arises, inter alia, from Article 4 of Regulation 1078/2012 which stipulates that railway undertakings, infrastructure managers and entities in charge of maintenance, including their contractors, should ensure through contractual arrangements that all relevant safety-related information resulting from the application of the monitoring process is mutually exchanged to enable the other party to take all necessary remedial actions to ensure that the safety of the railway system is maintained at all times.

One must bear in mind that the condition for ensuring control over hazards in the area of shared risk is the application of the adopted solutions by all parties interested, and if modifications are necessary - their joint definition and implementation.

The above guidance is partly based on the requirements of Regulation 402/2013 under which the risk management process applies to significant changes. However, it must be noted that the principles underlying the risk management process laid down in this Regulation are common practice in risk management and can therefore also be applied to all other situations where risk assessment is necessary.

To sum up, the basis for joint supervision by entities of hazards from the area of shared risk is the implementation of effective solutions that allow for joint definition of safety measures, then their monitoring and possible modification to ensure the most effective control of the risk associated with the given hazard. This will not be possible without close cooperation between the entities and implementation of effective information exchange mechanisms.

**Team Leader**

**KAMIL WILDE  
VICE-PRESIDENT OF THE  
OFFICE OF RAIL TRANSPORT  
FOR SAFETY**

*/Document signed with a qualified electronic  
signature./*

For more information, call: 22 749 15 30  
Office of Rail Transport - Technology and Product Department

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