
RUs / IMs / **ECMs Responsibility and Monitoring obligation vis-à-vis their subcontractors, partners, services and goods suppliers**

7th REGIONAL ERA Workshop
BUDAPEST



SUMMARY

0 - LUXEMBOURG RAIL NETWORK

1 - LUXEMBOURG RAILWAY ACTORS

2 - LEGAL FRAME WORK

3 - SUPERVISION* versus MONITORING**

4 - NSA LU EXPERIENCES

5 - MAIN CONCLUSIONS

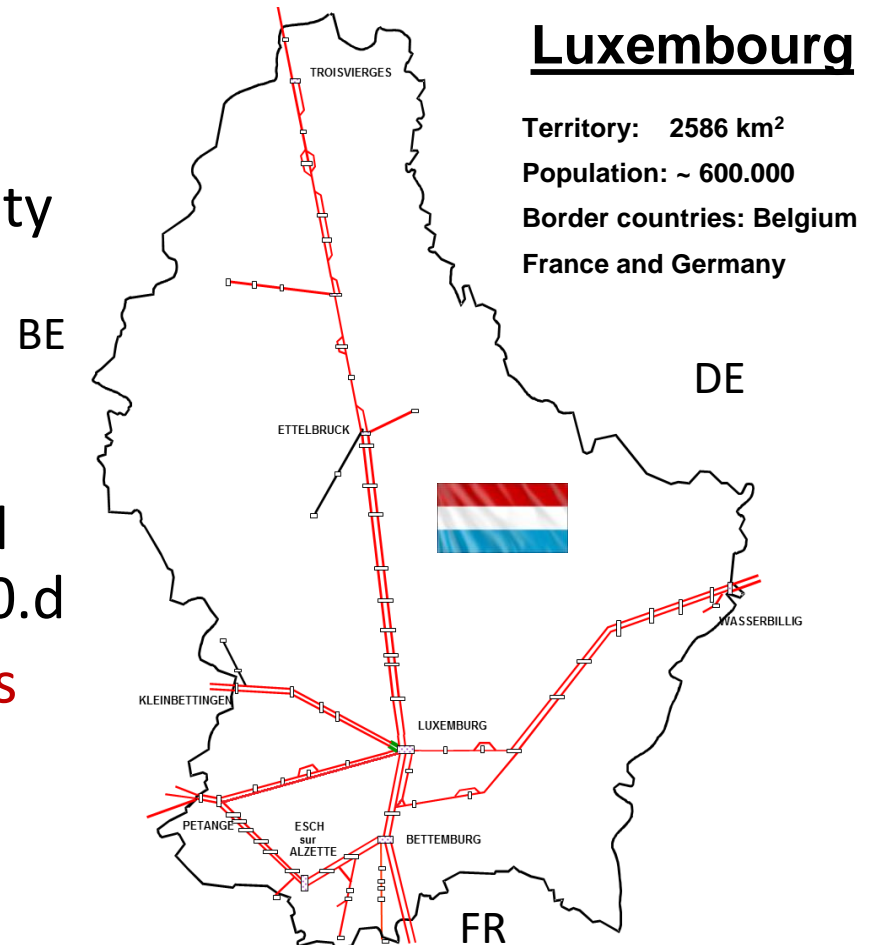
* Supervision done by NSAs

** Monitoring done by IMs, RUs and ECMs



0 - LUXEMBOURG RAIL NETWORK

- 275 km lines, star-shaped departing from Luxembourg-City
- 451 km main track
226 km service track
- 95% electrified (25kV/50Hz)
- 100% of the network equipped with ETCS level 1 baseline 2.3.0.d
- **>40% of the railway traffic goes cross-border** (Belgium, France and, Germany)



1 - LUXEMBOURG RAILWAY ACTORS

- MINISTRY : MMTP (Ministère de la Mobilité et des Travaux publics)
- NIB : AET (Administration des enquêtes techniques)
- NSA : ACF (Administration des chemins de fer)
- 1 IM
- 2 RUs with A+B SC Luxembourg
- 2 RUs with B SC Luxembourg
- 1 Training Center (train drivers) – 41 Examiners
- 3 ECMs
- 1 Nobo
- 9 DeBos
- 5 RISC Assessors (CSM RA)



2 –LEGAL FRAMEWORK (1/6)

Directive (EU) 2016/798 Safety Directive

- Art. 4 Role of actors (IM/RU) in the Union rail system in developing and improving railway safety.
 3. **RUs and IMs managers shall:**
 - (d) **ensure** that their contractors implement risk control measures **through the application of the monitoring processes** set out in the **CSMs*** on monitoring...

* COMMISSION REGULATION (EU) No 1078/2012 on a common safety method for monitoring to be applied by railway undertakings, infrastructure managers after receiving a safety certificate or safety authorization and by entities in charge of maintenance



2 –LEGAL FRAMEWORK (2/6)

Directive (EU) 2016/798 Safety Directive

- Art.14 Maintenance of vehicles (ECM).

2. Without prejudice to the responsibility of the RU and IM for the safe operation of a train, the **ECM**shall establish a maintenance system for the maintenance of those vehicles it is in charge and **shall by means of that system:**

(c) **ensure** that its contractors implement risk control measures **through the application of the CSM on monitoring,...**and that this is stipulated in contractual arrangements to be disclosed on request of ERA or NSAs,

2 - LEGAL FRAMEWORK (3/6)

COM DELEGATED REGULATION (EU) 2018/762 CSM on SMS requirements

- ANNEX 1 (RU) and ANNEX 2 (IM)

5.3. Contractors, partners and suppliers

5.3.3. In accordance with the process set out in Article 3 of Regulation (EU) No 1078/2012*, **the organisation shall monitor:**

- (a) the safety performance of all activities and operations** of contractors, partners and suppliers to ensure that they comply with the requirements set out in the contract;
- (b) the awareness of contractors, partners and suppliers of safety risks** they entail to the organization's operations.

* COMMISSION REGULATION (EU) No 1078/2012 on a common safety method for monitoring to be applied by railway undertakings, infrastructure managers after receiving a safety certificate or safety authorization and by entities in charge of maintenance



2 - LEGAL FRAMEWORK (4/6)

COM. IMPL. REGULATION (EU) 2019/779 on a system of certification of **ECMs** of vehicles

- **Art. 9 Outsourcing maintenance functions**
 3. **The ECM shall remain responsible** for the outcome of the outsourced maintenance activities and **shall establish a system to monitor their performance.**
- **ANNEX II - 9. Contracting activities**
 - 9.3. **The ECM shall have a procedure to define the requirements** that such contractors and suppliers have to meet.
 - 9.4. **The ECM shall have procedures to monitor** the awareness of suppliers and/or contractors of risks they entail to the organization's operations.



2 - LEGAL FRAMEWORK (5/6)

COM. REGULATION (EU) No 1078/2012 **Monitoring to be applied by RUs, IMs and ECMs**

- **Article 3 - Monitoring process**

1. Each railway undertaking, infrastructure manager and entity in charge of maintenance:

- (b) shall ensure that risk control measures implemented by their contractors are also monitored in compliance with this Regulation. To this end, they shall apply the monitoring process set out in the Annex or require their contractors to apply this process through contractual arrangements.



2 - LEGAL FRAMEWORK (6/6)

Appendix Framework for the monitoring process COM



3 - SUPERVISION versus MONITORING (1/3)

Definitions in European Regulations

- ‘supervision’ means the arrangements put in place by the national safety authority **to oversee** safety performance after it has granted a safety certificate. (Reg (EU) 1058 and 1169/2010)
- ‘monitoring’ means the arrangements put in place by railway undertakings, infrastructure managers or entities in charge of maintenance **to check** their management system is correctly applied and effective (Com Reg (EU) No 1078/2012)

Definitions in Cambridge Dictionary:

- supervision: The art of **watching** a person or activity and making certain that everything is done correctly, safety,...
- monitoring : To **watch and to check** a situation carefully for a period of time in order to discover something about it.

ROLE	SUPERVISION	MONITORING
AUDITOR	NSA /ERA/ ECM Cert Body	IM/RU/ECM
AUDITEE	IM/RU/ECM	Partner/Subcontractor/ Service and Spare parts Supplier

ROLE	ENTITIES	OF WHO
CERTIFYING ENTITY	NSA/ERA/ ECM Cert Body	IM/RU/ECM
SELECTING + CONTRACTING ENTITY	IM/RU/ECM	Partner/Subcontractor/ Service and Spare Parts Supplier



3 - SUPERVISION versus MONITORING (2/3)

The differences are :

- **Their obligation** (confer definitions)
NSA have to **watch** / **oversee** - IMs and RUs have to **check** / **watch+ check**
- **Their role**
NSAs are **certifying** entities - IMs*, RUs* and ECMs** are **selecting** contractors, partners and suppliers



3 - SUPERVISION versus MONITORING (3/3)

*the obligations for IMs and RUs are fixed in ANNEX I and ANNEX II of Com. DELEGATED REGULATION 2018/762 (SMS requirements) in:

5.3. Contractors, partners and suppliers

5.3.2. To control the safety risks referred to in paragraph 5.3.1, the organisation (IMs and RUs) shall define the criteria for the selection of the contractors, partners and suppliers and the contract requirements they have to meet, ...

**For ECMs the Com. IMPLEMENTING REGULATION 2019/779 (ECM certification system) contains some provisions in ANNEX II:

9. Contracting activities — *a structured approach to ensure that subcontracted activities are managed appropriately in order for the organisation's (ECM) objectives to be achieved*

9.2. When making use of contractors or suppliers, or both, for safety-related products and services, the organisation (ECM) shall have procedures in place to verify at the time of selection that:

- (a) contractors, subcontractors and suppliers are competent;
- (b) contractors, subcontractors and suppliers have a maintenance and management system that is adequate and documented.



4 - NSA LU EXPERIENCES

AUDITS RUs and IMs (regarding ANNEX II REG.1158/2010+1169/2010)

- **C. RISK CONTROL RELATED TO THE USE OF CONTRACTORS AND OF SUPPLIERS**
- **D. RISKS ARISING FROM THE ACTIVITIES OF OTHER PARTIES EXTERNAL TO THE RAILWAY SYSTEM**

NSA LU detected often Non-Conformities (pure monitoring activities).

ANNUEL SAFETY REPORTS of 2018

2019 NSA LU requested data about the monitoring activities from IM/RUs.

Not really convincing Data there is space for improvement.

REMARK:

NSA LU has no experience with ECMs as we didn't certified any EMCs until now.

5 – MAIN CONCLUSIONS

NSA LU

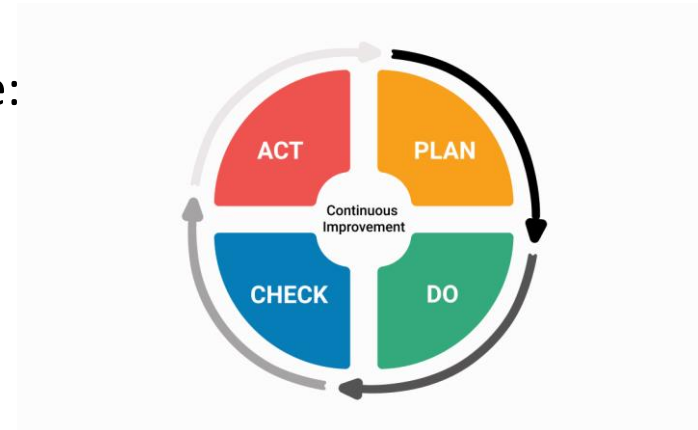
Reminder of the legal frame (responsibility and the obligation for monitoring)

Subject is continuously supervised (contracts and monitoring activities) by NSA LU

RUs and IMs

Action plans to be dressed with Measures to be:

- Developed,
- Implemented,
- Evaluated internally,
- Revised if necessary,



Thank You For Your Attention Questions are Welcome

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