



Results of the NSR Task Force (part 1): NSR concept and future

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I have been told that...



My SMS shall meet provisions in TSIs, NSR and other applicable rules

- What are NSR?
- Where to find them?
- Do I really need them?

My task is to enforce NSR and promote their transparency in compliance with EU law

- What does it mean?
- Is it a priority?
- Something to change?





Railway Safety Directive 2004/49/EC

Objectives

- **At least maintain safety level**
- **Increase it when reasonable**
- **Promote competitiveness**
- **And competition**
- **Develop interoperability**
- **And limit barriers**
- **Create mutual trust**



Any safety measure
shall foster the
development of a
single European rail
transport system



Railway Safety Directive 2004/49/EC (II)

Safety regulatory framework

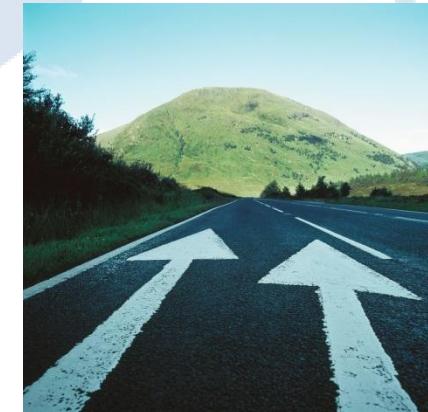
Basis for any European and national legislation on railway safety

Roles and responsibilities

Harmonised regulatory structure

Approach to safety management

- Safety Management Systems (SMS)
- Independent bodies – IMT and GISAF
- Transparency
- Preventive culture
- Common safety methods and targets – CSMs and CSTs





YES – you need them !

Common approach and rules need time to develop

Status 2004: few TSIs

Transitional solution: NSR

Keep new NSR to a minimum

NSR objective 2004

- Move from self- to public regulation
- Transparency
- Define roles and interfaces
- Level-playing field

Need to establish
and notify NSR



Make a success story !

Status 2013:

- **Complete CSMs and CSTs**
- **Almost complete TSIs**

Objective 2013

- **Consistent application of EU rules**
- **Safety maturity**
- **Simplify remaining NSR**
- **Transparency**

Ultimate goal: harmonised rules

Focus changes

**Need to revise
and reduce NSR**



What does it mean?

- **Justified NSR are comprehensive, non-discriminatory, established transparently, made available, understood**
- **NSR which are not justified or replaced by EU rules are timely removed from national law & NSA**
- **A recurrent process → follow EU developments**

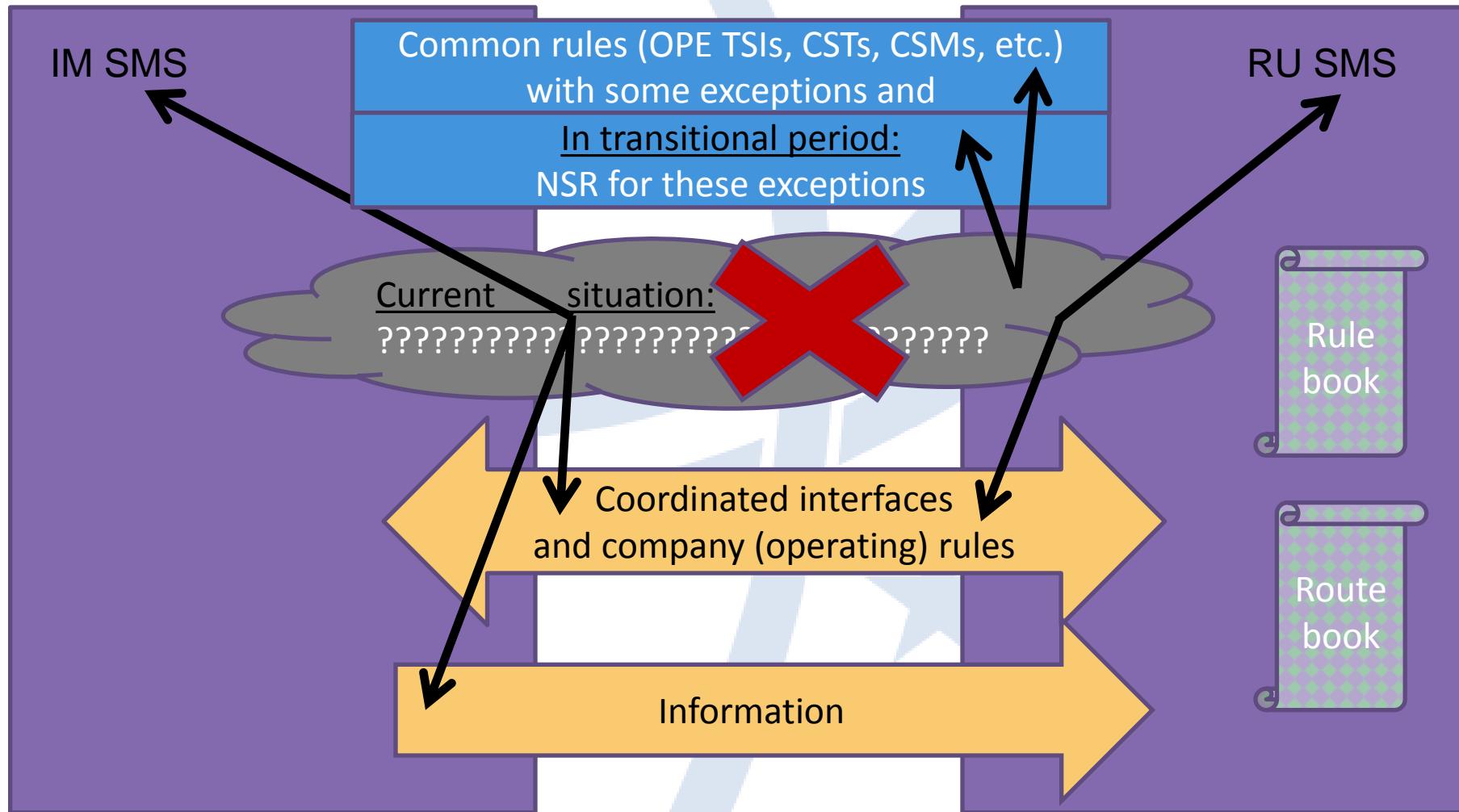


NSR published = NSR notified = NSR applied

No hidden rules !



Need to clarify existing uncertainties





YES – priority !

Current uncertainties =

- **Big costs**
- **Unnecessary safety risks**
- **Complicated transition**

Big and difficult work? YES

Can it be simplified? YES

- **Understanding**
- **Systematic work**
- **Dialogue**
- **Guidance of the NSR Task Force**



More clarity
= less work
for all!



Start now
Be curious
Make plan



Let's analyse NSR definition

Directive 2004/49/EC Article 3(h)

NSR are
all rules

*containing railway safety requirements
imposed at Member State level and
applicable to more than one
Railway Undertaking [RU],
irrespective of the body issuing them*



Personal scope of NSR

Applicable to more than one RU

- **Rules primarily addressed to RUs**
- **Covering their interfaces with IMs**
- **Important for:**
 - Training centers, subcontractors
 - Railway users
 - Anyone concerned with efficiency of railways
- **Not rules for IM, NSA, etc.**

Example YES:
Emergency
communication
RU-IM

Example NO:
IM measures to
restore traffic



*Imposed at Member State level,
Irrespective of the body issuing them*

- Legislation (preferably)
- Or a rule of any competent body
(a tool for immediate transparency)
 - If recognised by law
 - Made binding upon RUs by law
 - Validated by Ministry / NSA
- Not policy
- Not information / registers
- Not voluntary standard
- Not procedure / guidance

Examples YES:
Decree-Law,
Regulation
approved by IMT

Transparency,
consultation,
availability,
compliance



Geographical scope of NSR

NSR scope = scope of Dir. 2004/49/EC

- **Railway system: whole or part**
 - Certain gauge / lines
 - Certain regions
 - Certain types of stations
- **Other railways if MS includes them**
 - Metros and trams
 - Functionally separated
 - Private for own operations
 - Historic
- **Not local rules**
 - No news but result of other rules

Examples YES:

1. Operation on lines without ATP
2. Operation in non-supervised stations

Examples NO:

1. Operation in a non-supervised station **X**
2. Speed in tunnel **Y**



IMs may have the following:

- Rules for interface with RUs, if allowed by law = **NSR**
 - Not binding by law? → Establish legal base
 - In any case - validation by IMT
- Coordinated internal & local rules of RUs and IMs
 - Support application of NSR, TSIs, etc.
 - Mutually agreed (Dir. 2004/49, Art. 4(3))
 - Not decided unilaterally
- Internal procedures for own use by IM
- Network-related information

Same
condi-
tions

Associations
may
contribute



Any legislation?

Containing railway safety requirements

Not yet replaced by TSIs, etc.

- Requirements specific to that country
- Have to be justified
- Limited to exceptions in EU rules
 - Ex: TSI open points and specific cases
- National but not NSR:
 - Transposition / implementation of EU law: Directives, TSI, CSM, etc.
 - ❖ repeats EU law
 - ❖ different notification to EC

Example YES:

Rear end / visibility of domestic freight trains (open point in OPE TSI)

Example NO:

Decree on train driver certification



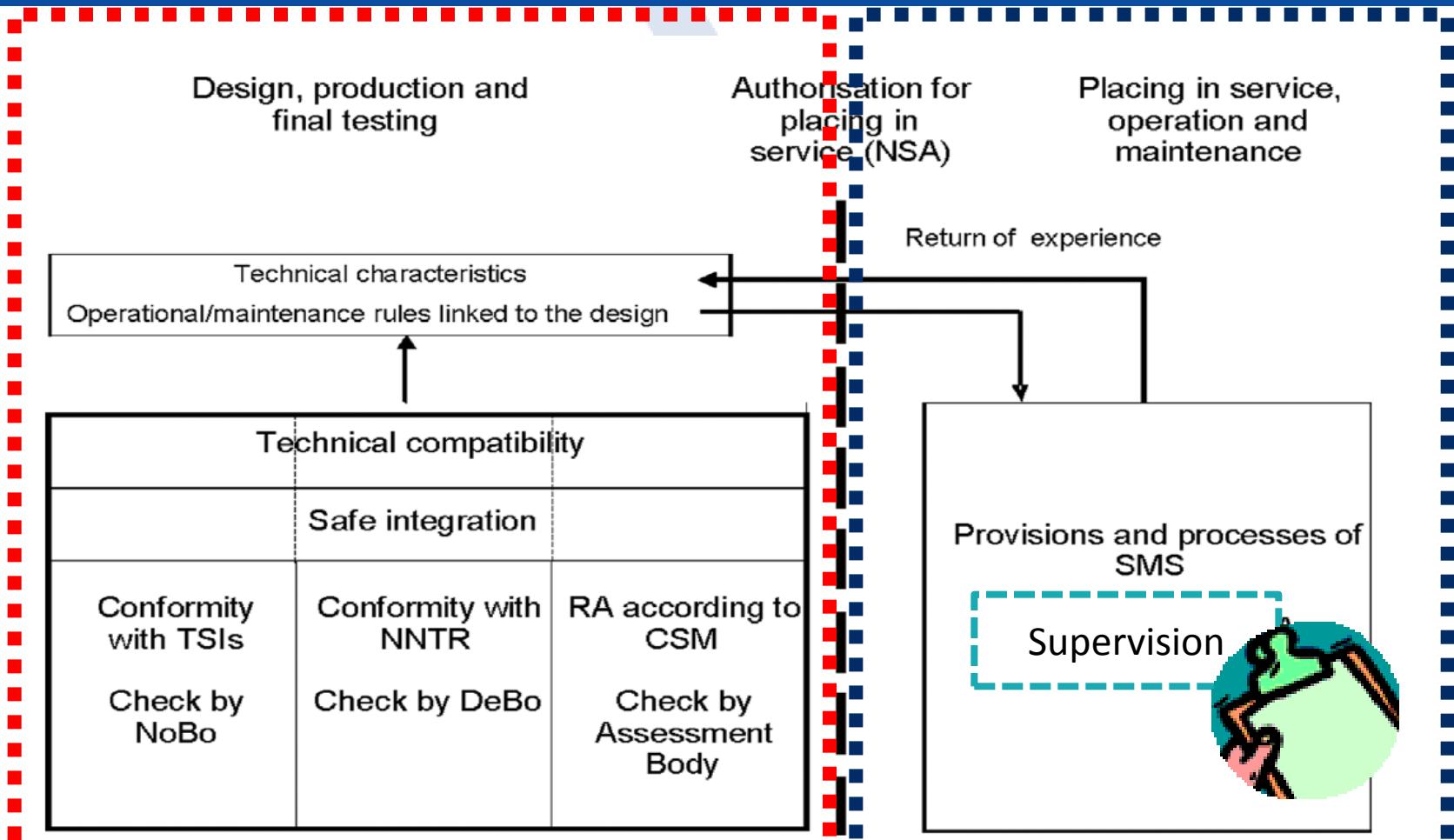
Railway safety scope of NSR

Containing railway safety requirements

- **Safety requirements that are railway-specific**
- **Categories in Annex II of Directive 2004/49/EC**
 - RU/IM and their staff shall be prepared to operate safely
 - **Focus on roles and operation**
 - Design and maintenance are covered by other legislation
 - BUT in **future** they will be all in one set of **National Rules**
- **Include rules for operation and traffic management resulting from other Railway Directives**
 - Interoperability Directive 2008/57/EC
 - Directive 2008/68/EC on transport of dangerous goods and RID



Safety and Interoperability



Interoperability Directive

Safety Directive



Overlaps of different rules

NSR and National Technical Rules (NTR)

Complete overlap of NSR with NTR for subsystem
“Operation and Traffic Management”

4th Railway Package:

National Rules – same treatment

Safety Directive: exceptions from CST and CSM

Interoperability Directive: exceptions from TSIs, including OPE rules

Technical regulations for products and Information Society services
– Dir. 98/34/EC

Complete overlap of NTR for products with technical regulations
for products

4th Railway Package:

No more use of TRIS; all rules in Notif-IT



Overlaps of different rules (II)

National provisions for the transport of dangerous goods (TDG) –
Dir. 2008/68/EC and its annex RID

Potential overlap with NSR and NTR → Rule Management Tool
Rules to be checked case by case

National rules under other Directives

The overlap with NSR and NTR is not recommended but occurs

Example:

Seveso III does not apply to operations in marshalling yards →
Safety Directive shall apply If MS applies Seveso III on marshalling
yards → mistake → overlap with NSR

- Any rules shall meet EU law on railway safety & interoperability



False brothers of NSR

Applicable but not NSR:

- ✓ Safety provisions in “horizontal” laws
- ✓ Not specific to railways

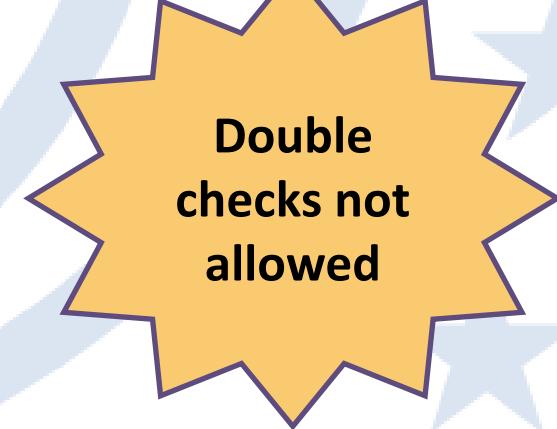
Different use than NSR

NoBo considers all laws

Take into account in your SMS

- Environment
- Public security
- Worker protection, etc.

- ❖ Ministry / NSA shall ensure there is no contradiction between different safety legislation and Railway Directives: safety roles and responsibilities, TSIs, CSMs and CSTs





Safety finality of NSR

Transparent and kept to a minimum

Strictly limited to the safety objective

Make sure NSR is the best option

- **Proportional**
- **Not prescriptive**
 - Same level of details as TSIs/CSMs
- **Open for >1 solution**
- **Non-discriminatory**
 - No different treatment of identical situations
 - No competitive advantage to one or several domestic RUs

Example YES:

Train drivers shall get an updated Rule Book (OPE TSI)

Example NO:

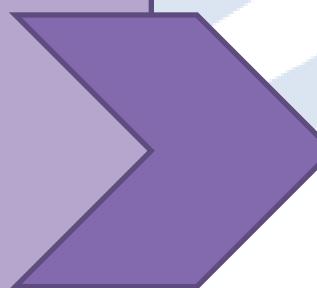
Rule Book shall be in A3 book format and shall be validated by IM



Simple rules: danger or benefit?

Simpler NSR is a benefit!

Improve and simplify the system
Not necessarily change it
Focus on essential
Support to interoperability
Understandable
Promote risk prevention
Open for viable solutions



Easier Training
Supervision
Monitoring

Increased safety

Competitiveness



YES, RUs and IMs can manage it !

Application

Competence

Transition

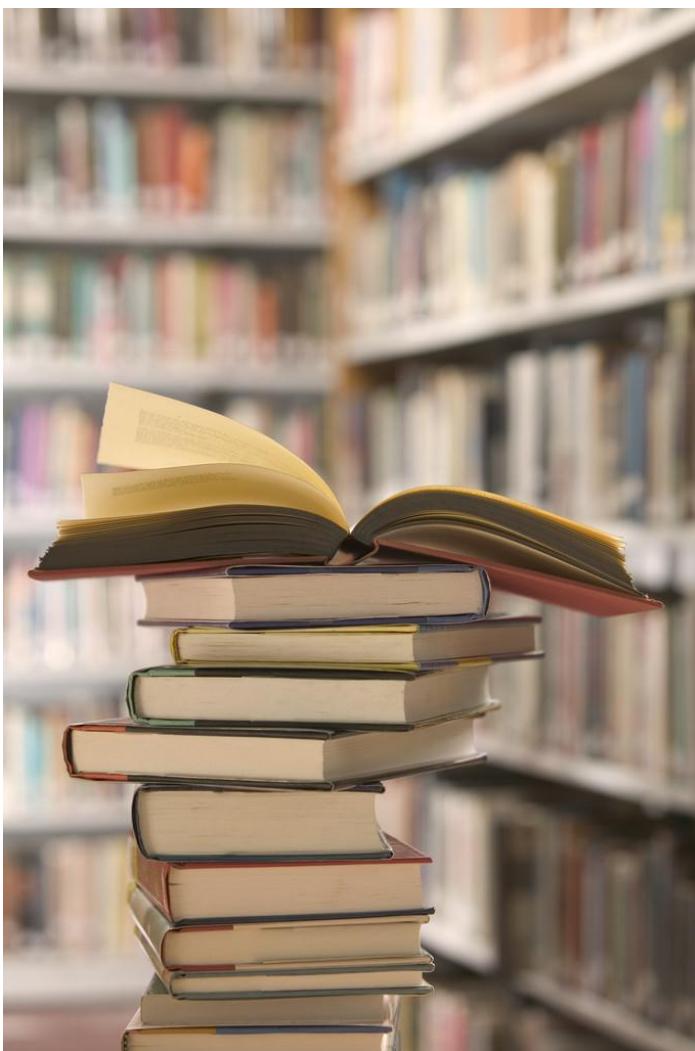
- Not NSR but application ensures safety - SMS
- Clear reason behind a rule → solution
- Adapted to activity profile → fulfilled

- Historic knowledge is shared (old NSR)
- RUs/IMs shall maintain competence
- NSA guidelines
- External expertise when needed

- Clear and realistic planning
- Promote safety maturity



What NSR can exist today?



Rule Management Tool v. 1.0 Final Report of the NSR TF, Annex 3

ERA website / Key documents

Number	Type	Task / responsibility / parameter	Requirements covered by common rules (ref. to TSs, CST, CSM, etc.)	Kinds of NSR to be withdrawn	Kinds of existing NSR that may remain (Note: all rules have to be brought in line with EU-legislation)	Comments
1	type 1-rule	rules concerning existing national safety targets	2nd set of CST: Commission Decision 2012/2226/EU	no room for NSR	existing NSR defined in Annex II of the MDR	national safety targets are replaced by common safety targets and common safety methods
2	type 1-rule	rules concerning existing national safety methods	Commission Regulation (EU) 1158/2010 of 9 December 2010 on a common safety method for assessing conformity with the requirements for obtaining a nuclear safety authorisation (CSM CA RU)	no room for NSR	no room for NSR	
3	type 1-rule	rules concerning existing national safety methods	COMMISSION REGULATION (EU) No 1158/2010 of 10 December 2010 on a common safety method for assessing conformity with the requirements for obtaining a nuclear safety authorisation (CSM CA RU)	no room for NSR	no room for NSR	
4	type 1-rule	rules concerning existing national safety methods	Commission Decision 2008/466/EC of 5 June 2008 on the adoption of a common safety method for assessment of performance requirements	no room for NSR	no room for NSR	
5	type 1-rule	rules concerning existing national safety methods	Commission Regulation (EU) No 352/2009 of 24 April 2009 on a common safety method for assessing conformity with the requirements for obtaining a nuclear safety authorisation	no room for NSR	no room for other NSR within the scope of this CSM	CSM allow to keep risk acceptance criteria and criteria for significant change
6	type 1-rule	rules concerning existing national safety methods	Commission Regulation (EU) No 352/2009 of 24 April 2009 on a common safety method for assessing conformity with the requirements for obtaining a nuclear safety authorisation, decided by RISG/SC on 6 June 2012	no room for NSR, as soon as Commission Regulation is in force	no room for NSR, as soon as Commission Regulation is in force	
7	type 1-rule	rules concerning existing national safety methods	Commission Regulation (EU) No 352/2009 of 24 April 2009 on a common safety method for assessing conformity with the requirements for obtaining a nuclear safety authorisation, decided by RISG/SC on 6 June 2012	no room for NSR, as soon as Commission Regulation is in force	no room for NSR, as soon as Commission Regulation is in force	
8	type 1-rule	qualitative and quantitative targets of the organisation and enhancement of safety and protection of the public for reaching these targets	Commission Regulation (EU) No 1158/2010 of 9 December 2010 on a common safety method for assessing conformity with the requirements for obtaining a nuclear safety authorisation (CSM CA RU)	no room for NSR	no room for NSR	
9	type 1-rule	definition or description of the safety responsibilities of RUs	Commission Regulation (EU) No 1158/2010 of 9 December 2010 on a common safety method for assessing conformity with the requirements for obtaining a nuclear safety authorisation (CSM CA RU)	no room for NSR	no room for NSR	This is not an NSR but is transposition of Article 4 RSD
10	type 2-rule	Criteria for significant change and the update of the Safety Certificate (Part B is required)	RISD Article 16, CSM CA		criteria for significant change	Authorized by the CSM RA

To be used together with the general clarifications in the Report



Rule Management Tool

Purpose and status

- **Classification of national rules (NSR, NTR, TDG provisions, other)**
- **Need for rule notification**
- **Allowed scope for national rules and need for rule revision**
- **Transparent basis for consistent decisions by MS and EC (with ERA support)**
- **Useful check-list:**
 - For MS to decide what to do with existing and planned rules
 - For ERA and EC to evaluate rules and analyse complaints
- **Current status: Summary of legal obligations, updated every year**
- **Future status: EC Decision (2015-2016)**



Rule Management Tool Content

RMT version 1.0 is based on current EU law (status October 2012)

RMT focuses on NSR and their interfaces with other rules:

- Room for NSR
- Overlap between NSR and NTR
- Overlap between NSR/NTR and TDG
- TDG cases included when Dir./RID give room for authority rules

RMT also describes frequent examples of provisions that are not NSR (NTR or other, e.g. transposition measures, information, etc.)

- For better understanding
- Not exhaustive list of examples

Some rules are covered by more than one RMT line

Important to understand general explanations in the Final Report



RMT structure

Number	Type	Task / responsibility / parameter	Requirements covered by common rules (ref. to TSIs, CST, CSM, etc.)
38 <i>Please indicate in notification</i>	Type-4 rule (NSR)	Identification of trains/ train running numbers <i>Some tasks may be covered by several lines, e.g. transport of dangerous goods</i>	OPE CR TSI 4.2.3.2
Kinds of NSR to be withdrawn		Kinds of existing NSR that may remain <i>Remaining NSR may need revision in line with EU law</i>	Comments
No room for NSR <i>No room = no rule</i>		Specific case for IE and UK: CR OPE TSI 7.3.2.2	Same requirement is in the merged OPE TSI as in CR OPE TSI (<i>Decision 2012/756/EU</i>)



Remaining NSR in summary

These NSR remain ... until covered in the European legislation

- **Some operating NSR**
 - As allowed by OPE TSIs,
 - Directive 2008/68/EC and RID (transport of dang. goods)
- **Risk acceptance criteria**
- **Criteria for significant change**

Any other notified rules are no longer NSR

They shall be progressively revised, clarified and reduced

Railway Safety Directive will be amended (Annex II deleted)



Impact on Portuguese rules: Discussion started with IMT

Type 1 NSR - national safety methods and targets

Type 5 NSR - requirements for internal rules

None exist, OK

Type 2 NSR - RU safety certification and SMS

Not NSR but transposition measures (in force)

Notify criteria for significant change 443/2010

Type 7 NSR - accident and incident investigation

Not NSR but transposition measures (in force)

Check old Decree-Law 39870

Transposition:
270/2003
231/2007

395/2007



Impact on Portuguese rules (II): Discussion started with IMT

Type 4 NSR - operation, signalling & traffic control

1.

Revise and reduce notified rules (SMS + OPE TSI)

Identify, revise and notify non-notified rules

Clarify which rules are NSR and NTR

2.

Identify rules that should not be binding

(instructions, local rules and information)

Implement such rules in SMS

(RU-IM coordinate themselves as necessary)

3.

Align rule index of IMT and REFER

I.E.T. 2



Impact on Portuguese rules (III): Discussion started with IMT

Type 6 NSR - staff competences and fitness

Split transposition measures (remain in force)
from NSR (to be reduced in line with EU law)

Define transition measures & plan for reducing NSR

RGS 12
189/2006
(23721/2006)
I.E.T. 77
Regulamento
5

Meanwhile notify non-notified NSR

1551/2012
322/2000

News in the 4th Package:

On-board staff with passenger safety issues

❖ ERA to develop SMS details on staff attestation and training



How to align national rules with European? Legal obligation and priority

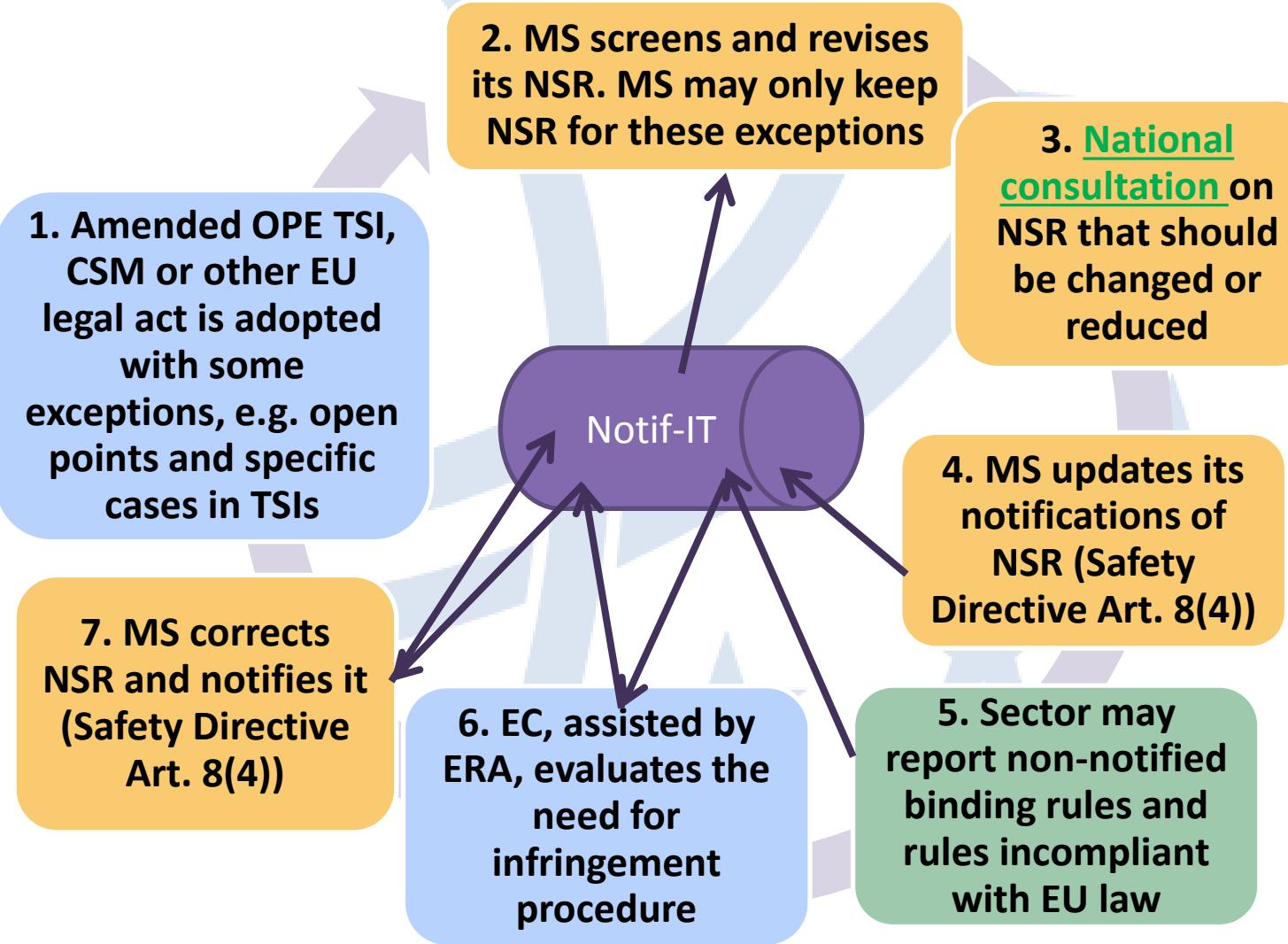
Notes:

1. Consistent recurrent process as it should be
2. Sector assumes its safety responsibilities
3. Same for NTR

Action by EC and ERA

Action by Member State

Action by the Sector





What if a problem requires additional rule? Possibility

Notes:

1. Only if strictly necessary and justified
2. Same for NTR

Action by EC and ERA

Action by Member State

Action by the Sector

9. When allowed, MS adopts and notifies NSR (RSD Art. 8(4)). NSR may remain in force until replaced by EU rule.

8. EC, assisted by ERA, checks draft NSR (Safety Directive Art. 8(7))

7. Sector may comment on draft

6. MS notifies draft NSR to EC (Safety Directive Art. 8(7))

5. National consultation of draft NSR

1. MS wants to keep more requirements than allowed by EU law or wants to solve a new problem by rules

2. MS informs EC and ERA about potentially missing Basic Parameter in OPE TSI, CSM or other EU law.
**Priortiy to EU solution
No new NSR yet**

3. EC and ERA analyse MS request (procedure on deficiencies, e.g. Interop. Directive Art. 7)

4. If the missing Basic Parameter is confirmed, MS can keep existing NSR or draft a new NSR for that parameter.



So many rules ! Where to find ?

IMT website
(main source now)
www.imtt.pt

- National & EU legislation
- National rules

Split NSR and other

REFER website www.refer.pt
IM information and references to laws and rules
Be consistent

ERA website
www.era.europa.eu
All EU legislation & registers on safety and interoperability

NOTIF-IT (main source in future)
<https://webgate.ec.europa.eu/risdb>
All MS: (Draft) NSR (to be updated),
NTR for subsystems and vehicles

TRIS (obsolete in future)
<http://ec.europa.eu/enterprise/tris>
All MS: (Draft) NTR for products



National Safety Rule should be:

National Requirement	<ul style="list-style-type: none">• Railway specifics in that Member State• Legally binding for RUs• Applicable on the whole network or its part
BUT	
European Approach AND	<ul style="list-style-type: none">• Promoting objectives in EU Directives• Based on roles and responsibilities in the Railway Safety Directive• Temporal rules within the scope allowed in EU law• Compatible and not conflicting with EU legislation• Justified and proportional to their safety objective• Non-discriminatory



Thank you very much for your attention!
Do you have questions?

Contact:
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