

MEMORANDUM OF UNDERSTANDING

ON DIFFERENT COOPERATION TASKS OF NATIONAL SAFETY AUTHORITIES

BETWEEN

Tarbijakaitse ja Tehnilise Järelevalve Amet being the National Safety Authority of the Republic of Estonia (hereinafter referred to as "NSA EE") having its seat at Endla 10a, 10122 Tallinn, represented for the purposes of the signature of this Cross-border Agreement by Teele Tohver, Head of Administrative Department on behalf of Director General,

AND

Valsts dzelzceļa tehniskā inspekcija being the National Safety Authority of the Republic of Latvia (hereinafter referred to as "the NSA LV") having its seat at Riepiņnieku iela 2, Rīga LV-1050 Latvia, represented for the purposes of the signature of this Memorandum of Understanding by Andris DUNSKIS, Director,

Hereinafter referred to collectively as "NSAs" and individually as "NSA EE or NSA LV".

Having regard to Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (hereinafter referred to as "Directive 2016/798"), and in particular Article 17 thereof,

Having regard to European Commission delegated Regulation (EU) 2018/761 of 16 February 2018 on establishing common safety methods for supervision by national safety authorities after the issue of a single safety certificate or a safety authorisation pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 1077/2012 (hereinafter referred to as "Regulation 2018/761"), and in particular Article 8(1),

Article 1. Scope of the agreement

This Memorandum of Understanding (hereinafter referred to as "MoU") sets out the principles of the cooperation between NSA EE and NSA LV in supervision activity concerning railway undertakings operating in both Latvia and Estonia after the receiving the single safety certificates.

Article 2. Cooperation in the supervision activity

1. The NSAs coordinate the supervision of railway undertakings which operate in both states and the coordination is based on Regulation 2018/761, in particular Article 8 and Annex II. Among other things, coordination includes periodic exchange of relevant results of supervision, the possibility to conduct audits and inspections jointly as well as communication on future items and methods for supervision including supervision strategy and plan(s).
2. Within a month from signing the agreement the NSAs will send to each other a list of railway undertakings which require coordinated/joint supervision. The lists should:
 - 2.1. include the scope of activities of the railway undertaking concerned in the country of that undertaking;
 - 2.2. include relevant details concerning their certificates and their operation;
 - 2.3. take into account railway undertakings operating in the other state under contractual or partnership arrangements.

Article 3. Exchange of information

1. The NSAs:

- 1.1. share existing supervision strategies and plans;
- 1.2. share information on how each authority targets its activities for each railway undertaking concerned as part of the supervision plan;
- 1.3. establish common points of interest and/or common issues.
2. The NSAs share:
 - 2.1. Information on the results from their assessment activities (major changes managed by railway undertakings, the queries or concerns if it suspects deficiencies or non-conformances with the safety management system arrangements, outcome of and weaknesses noticed during the safety management system assessment, etc.);
 - 2.2. Information on the results from their supervision activities, including enforcement decisions and actions (summary of findings conclusions and recommendations, action plans agreed with the company, etc.);
 - 2.3. information on the safety performance (relevant information from railway undertakings annual reports, etc.).
3. Information referred to above are shared to the extent they are relevant for coordinating supervision of the NSAs.

Article 4. NSAs' existing supervision strategies and plans

1. NSAs' strategies and plans for supervision activities are published on their homepages.
2. The supervision strategy and plans of NSA LV can be found [here](#).
3. The supervision strategy and plans of NSA EE can be found on NSA EE official website <https://www.ttja.ee/>.
4. If there are any major changes in the supervision plans concerning the railway undertakings referred in the Article 2 NSAs should inform another NSA at least 3 months in advance.

Article 5. Leading NSA in coordinated/joint supervision

1. For railway undertakings operating both in Latvia and Estonia, NSAs decide which of them is to have a leading role for coordinating the supervision of the correct application and effectiveness of the SMS in order to avoid duplication of supervision (hereinafter – Leading NSA).
2. Unless otherwise agreed before a single safety certificate is issued, the NSA of the country where the railway undertaking is registered takes the leading role for coordinating the supervision and become a leading NSA for the particular railway undertaking.
3. After a single safety certificate is issued the NSAs may change the leading NSA by mutual consent.

Article 6. Coordinated or joint supervision

1. NSAs arrange coordinated or joint supervision activity. For such purpose leading NSA sets a plan for individual, coordinated or joint supervision activities without causing unnecessary inconvenience to the railway undertakings and by avoiding overlaps in the scope of these activities.
2. The NSAs should cooperate:
 - 2.1. in sharing the information about any non-compliance found during the assessment of railway undertaking's safety management system made for issuance, update or renewal of single safety certificate;
 - 2.2. in sharing the information about previous supervision activity and the results of it;
 - 2.3. in dealing with the major compliance gaps and the ways to address the identified discrepancies;

- 2.4. in appointing the NSA for follow up actions aimed to address residual concerns which have been deferred for supervision where appropriate.
3. Prepared coordinated or joint supervision plan of a railway undertaking concerned shall:
 - 3.1. identify key risks for the relevant railway undertaking to be addressed in a coordinated or joint manner by NSA's;
 - 3.2. agree what types (e.g. on-site or off-site activity; with interaction with people or limited/no interaction with people) of joint supervision activities to undertake, where relevant;
 - 3.3. agree how railway undertaking should be made aware of the arrangements and agreements made according to this MoU (written notice, email or another way).
4. The prepared coordinated or joint supervision plan should be agreed by both NSA EE and NSA LV.
5. The concerned railway undertaking should be informed in advance about a planned coordinated or joint activity in accordance with regulations applicable in the country of this activity.
6. Coordinated or joint supervision of railway undertakings identified under Article 2 shall be carried out at least once in five years or after significant changes in railway undertakings and their activities, major railway accidents involving these railway undertakings and other circumstances which NSAs recognise as important.
7. The requirements referred to above shall be understood and interpreted in view of the Guidance for Safety Certification and Supervision – Coordination between national safety authorities (European Union Agency for Railways, June 2018).

Article 7. Review of coordinated or joint supervision activities

1. The NSAs shall meet or have a teleconference at least once in three years in order to review the effectiveness of activities performed by the NSAs as provided for in this MoU and discuss major problems encountered in implementing its provisions.
2. For the purpose of the organising the meeting (physical or virtual) the hosting NSA (the hosting changes each time) one month prior the agreed date sends the email with the proposed agenda of the meeting and the NSAs agrees on the form of meeting, agenda and the participants. After the meeting the host NSA prepares the short minutes of the meeting.
3. During the meeting NSAs:
 - 3.1. exchange information about the date of planned supervisions and specific issues identified with railway undertakings that are relevant;
 - 3.2. establish common points of interest and/or common issues;
 - 3.3. share best practices of their NSA.
4. The conclusions from the meeting shall be taken into consideration in planning further coordinated or joint supervision activities.
5. Besides these meetings NSAs regularly exchange information via email through indicated contact points.

Article 8. Cooperation on cross-border infrastructure

NSAs arrange the supervision of cross-border infrastructure in such way:

1. Each NSA notifies the other NSA on the technical condition of the railway infrastructure in cross-border sections if it is necessary, for example when during supervision activities NSA has gathered information or NSA has received information about safety related topics, such as condition of the tracks, restrictions, speed reductions etc that could have an impact on the safe usage of railway infrastructure:

- 1.1. NSA LV notifies technical condition of sections Lugaži – state border;
- 1.2. NSA EE notifies technical condition of sections state border – Valga station.

Article 9. Cooperation of the NSAs

Beyond the cooperation agreed in the previous articles, the NSAs support each other in clarifying any question in matters of single safety certificate, safety authorisation, supervision of railway undertakings and infrastructure managers and authorisations for rolling stock or trackside subsystems.

Article 10. Common language and the level of confidentiality of the information

1. All communication between NSA's under this MoU herewith shall be in English language unless NSAs agreed otherwise.
2. All information used in coordinated or joint supervision and / or received in connection with this MoU is considered confidential and may not be disclosed by either NSA to any third parties, except with the prior written consent of the party who supplied the information.

Articles 11. Contact points

For the purpose of communications with respect to the MoU, all communications go through the designated focal points as follows:

1. NSA LV:

For the coordination of MoU:

Jelena Stepanova

E-mail Jelena.stepanova@vdzti.gov.lv

Tel. +371 29532059

For the coordination of supervision:

Kaspars Ozoliņš – Ozols

E-mail kaspars.ozolins-ozols@vdzti.gov.lv

Tel. +371 29532056

2. NSA EE:

For the coordination of MoU:

Kadi Zavadskis

E-mail kadi.zavadskis@ttja.ee

Tel. +372 6672051

For the coordination of supervision:

Kadi Zavadskis

E-mail kadi.zavadskis@ttja.ee

Tel. +372 6672051

If the contact person changes in either NSA, the other NSA will be informed of the new contact person.

Article 12. Entry into force

This MoU shall enter into force upon signature by both NSAs and shall remain in force, on the understanding that either NSA is at liberty to terminate it at any time after furnishing to the other NSA a notice of termination, in writing, three (3) months in advance of the date on which the Party furnishing such notice wishes to have the MoU terminated.

Article 13. Amendment

This MoU may be amended and modified at any time in writing by mutual consent of the NSAs. Such amendment or modification shall form an integral part of this MoU and shall enter into force on such a date as shall be determined by both NSAs.

The MoU is drawn up in the English language and signed with secure electronic signature and contains time-stamp

For Valsts dzelzceļa tehniskā inspekcija:	For Tarbijakaitse ja Tehnise Järelevalve Amet:
Andris DUNSKIS Director	Teele Tohver Head of Administrative Department On behalf of Director General
.....