Commission Implementing Regulation (EU) 2020/572 of 24 April 2020 on the reporting structure to be followed for railway accident and incident investigation reports (Text with EEA relevance)

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety[(1)], and in particular Article 24(2) thereof,

Whereas:

(1) Directive (EU) 2016/798 provides a framework to ensure that the results of accident and incident investigations are disseminated by the national investigating bodies (NIBs) in charge of reporting on rail accident and incident investigation across the Union, in accordance with its Article 22.

(2) The reports on investigations and any findings and subsequent recommendations provide crucial information for the future improvement of rail safety in the Single European Rail Area. In accordance with Article 26 of the Directive (EU) 2016/798, safety recommendations have to be acted upon by the addressees and actions reported back to the investigating body.

(3) A common structure of the investigation report should facilitate sharing the reports. To this end a public database managed under the responsibility of the European Union Agency for Railways was established in accordance with Article 37(3)(e) of Regulation (EU) 2016/796 of the European Parliament and of the Council[(2)], and is accessible through the Agency.

(4) To facilitate the access to useful information and its application to other European stakeholders, some parts of the report are requested in two European languages.

(5) The structure should protect the NIB from external interferences, guarantee that the investigation has been carried in an independent manner in accordance with Article 21(4) of the Directive (EU) 2016/798.

(6) Safety accident and incident investigation reports should ensure that lessons are learned from past accidents and incidents. They should facilitate the identification of safety hazards and elimination of similar safety risk in the future and allow actors in the rail sector to review their assessment of the risks related to their operations and update

their safety management systems where necessary, including where applicable to adopt corrective measures, pursuant to point 7.1.3 of Annex I and point 7.1.3 of Annex II to Commission Delegated Regulation (EU) 2018/762[3]. For this purpose the information contained in such reports should be structured to be easily accessible.

(7) The European Union Agency for Railways (the 'Agency'), which collects the reports, should maintain the appropriate informatics tool providing an easy retrieval, tailored on the specific needs of the user (e.g. using keywords).

(8) The measures provided for in this Regulation are in accordance with the opinion of the Committee referred to in Article 28(1) of Directive (EU) 2016/798,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation lays down a common reporting structure for the accident and incident investigations referred to in Article 20(1) and (2) of Directive (EU) 2016/798.

Article 2

Definitions

For the purpose of this Regulation the following definitions apply:

(1) 'causal factor' means any action, omission, event or condition, or a combination thereof that if corrected, eliminated, or avoided would have prevented the occurrence, in all likelihood;

(2) 'contributing factor' means any action, omission, event or condition that affects an occurrence by increasing its likelihood, accelerating the effect in time or increasing the severity of the consequences, but the elimination of which would not have prevented the occurrence;

(3) 'systemic factor' means any causal or contributing factor of an organisational, managerial, societal or regulatory nature that is likely to affect similar and related occurrences in the future, including, in particular the regulatory framework conditions, the design and application of the safety management system, skills of the staff, procedures and maintenance.

Article 3

Reporting structure

Without prejudice to the provisions of Articles 20, 24(1) and (2) of Directive (EU) 2016/798, the investigation reports shall be issued following the structure, as closely as possible, as set out in Annex I.

Points 1, 5 and 6 of the Annex I shall be written in a second official European language. This translation should be available no later than 3 months after the delivery of the report.

The reports shall be made available to the Agency in a digital format allowing access to it, its digital indexation and analysis.

Article 4

Transition

With regard to accidents and incidents for which a decision to launch the investigations has already been taken in accordance with Article 22(3) of Directive (EU) 2016/798 at the time of entry into force of this Regulation, the investigation body may decide whether to follow the reporting structure as set out in Annex I, or to follow that of Annex V to Directive 2004/49/EC of the European Parliament and of the Council[(4)].

Article 5

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 24 April 2020.

For the Commission

The President

Ursula VON DER LEYEN

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/572. (See end of Document for details)*

ANNEX

The structure to follow on the reporting

According to Article 24(1) of Directive (EU) 2016/798, accident and incident reports shall follow as closely as possible the structure here established, adapted to the type and seriousness of the accident or incident. This includes input, in principle, to all titles 1 to 6 including their subtitles in letters, where relevant. Where no relevant information is available or not required due to the circumstances of the occurrence, the statement 'not applicable' shall be introduced for the corresponding titles or subtitles, identifying them as not being considered relevant in the context of this investigation. The statement can be done in an aggregated manner either at the beginning or at the end of the relevant title or subtitle.

1. Summary

The summary is an integral part of to the report and shall be self-explanatory so that it can be read without further context.

It shall provide an outline of the basic facts of the occurrence: a short description of the accident or incident; when, where and how it happened; and a conclusion on its causes and consequences. The summary shall refer to all factors (causal, contributing and/or systemic) identified by the investigation. Where applicable, the summary shall list the safety recommendations and their addressees.

2. The investigation and its context

This part of the report shall give the objectives and the context of the investigation. It shall make reference to any factors such as delays that might have detrimental impact or otherwise influence the investigation or its conclusions.

1.	The decision to establish an investigation:	
2.	The motivation to the decision to establish an investigation, e.g. by reference to Art. 20.1 (serious accident) or Art. 20 (2) a) – d):	
3.	The scope and limits of the investigation including a justification thereof, as well as an explanation of any delay that are considered a risk or other impact to the conduct of the investigation or its conclusions:	*Information on scope and limits may further be detailed under point 4.*
4.	An aggregated description of the technical capabilities and the functions in the team of investigators. This includes those belonging to other investigation bodies or external parties involved,	*If anonymity is granted to persons or entities please clarify.*

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	as well as evidence for their independence from parties involved in the occurrence:	
5.	A description of the communication and consultation process established with persons or entities involved in the occurrence during the investigation and in relation to the information provided:	*If anonymity is granted to persons or entities please clarify.*
6.	A description of the level of cooperation offered by the entities involved:	*If anonymity is granted to persons or entities please clarify.*
7.	A description of the investigation methods and techniques as well as analysis methods applied to establish the facts and findings referred to in the report. The facts shall at least establish: — events and conditions that led to the occurrence; — any precursors that led to the above; — instructions, mandatory procedures, feedback mechanisms and/or control mechanisms that led to the occurrence or otherwise played a role regarding it.	*e.g. interviews, access to documentation and recordings on the operating system,*
8.	A description of the difficulties and specific challenges encountered during the investigation.	
9.	Any interaction with the judicial authorities, where appropriate	
10.	Where appropriate, any other information relevant in the context of the investigation.	

3. **Description of the occurrence**