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Eisenbahn-Bundesamt

- D R A F T -

Guideline

for the Issue of

Safety Certificates

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List of abbreviations

AEG	General Railway Act / Allgemeines Eisenbahngesetz
bzw.	and/or
EBA	Federal Railway Authority / Eisenbahn-Bundesamt
EBO	Railway Building and Operation Order / Eisenbahn- Bau- und Betriebsordnung
EBL	Railway manager / Eisenbahnbetriebsleiter
etc.	et cetera
EIU	Railway infrastructure company / Eisenbahninfrastrukturunternehmen
EIV	Railway Interoperability Order / Eisenbahn-Interoperabilitätsverordnung
ESiV	Railway Safety Order / Eisenbahn-Sicherheitsverordnung
ESO	Railway Signaling Order / Eisenbahn-Signalordnung
EU	European / Europäische Union
evtl.	possibly
EVU	Railway traffic company
ggf.	if necessary
o.g.	above mentioned
RL	Directive / Richtlinie
SiBe	Safety Certificate / Sicherheitsbescheinigung
SMS	Safety Management System / Sicherheitsmanagementsystem
Tf	Driver / Triebfahrzeugführer
TSI	Technical Specification Interoperability / Technische Spezifikation Interoperabilität
u. U.	possibly
VwVfG	Administrative Procedures Act / Verwaltungsverfahrensgesetz

0. Introduction

With the fifth law for change of railway-legal regulations as well as the second order for the issue and change of railway-legal regulations the implementation of the Directive 2004/49/EC into national right takes place.

In accordance with § 4 of the order on the safety of the railway system (Railway Safety Order – EsiV) the safety authority provides a guideline to the applicants in which the requirements for safety certificates are listed as well as the documents which shall be submitted.

Aim of the guideline is to support the railway traffic companies with the preparation of the application documents. For this the necessary documents for filing an application, which have to be submitted in German language, are described qualitatively and quantitatively as well as the procedure and the duration of the examination process in order to minimize, if possible, requests and/or further demands in the working process.

1. Safety Certificate

1.1 General

Without a safety certificate (SiBe) railway traffic companies may not participate in the normal public railway service in Germany. Regional railways, which only operate nationally, are excluded from this.

Railway traffic companies which participate in the normal public railway service without a valid SiBe act improperly. This irregularity can be punished with a fine of up to 50.000 €. Details for this are regulated in § 28 para. 1, no. 2 and 2a as well as para. 2 AEG.

The safety certificate shall be issued for railway traffic services specified acc. to kind and spatial extension on written request for the concerned railway systems or railways of public railway infrastructure companies, if the railway traffic company delivers the proof that

- a safety management system (SMS) is implemented which fulfills at least the requirements of Article 9 para. 2 and 3 of the Directive 2004/49/EC (SiBe Part A¹) and
- the special requirements for the safe traffic operation for personnel and vehicles on the concerned railway system or single railways are fulfilled (SiBe Part B²).

¹ SiBe Part A corresponds to § 7a para. 2, no. 1 AEG

² SiBe Part B corresponds to § 7a para. 2, no. 2 AEG

For railway traffic companies, which do not operate in cross-border traffic, a separate proof concerning the implementation of a safety management system (Part A) is dispensable as long as the company has an appointed railway manager, who is confirmed by the responsible supervisory authority (railway manager certificate). The proof that the special requirements for the safe operation for personnel and vehicles on the concerned railway systems are fulfilled (Part B) is not covered by the railway manager certificate and must therefore be delivered independently. The national particularities valid for national companies are summarized again in figure 1.

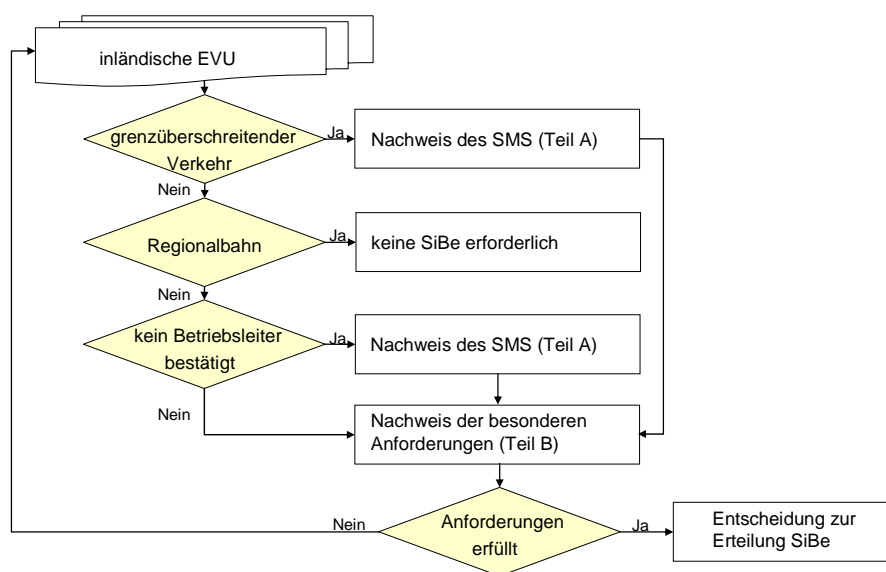


Figure 1: National particularities for national EVU

Railway traffic companies which have already a safety certificate of another member state of the European Community according to Article 10 Directive 2004/49/EC for similar railway traffic services and which intend to participate in the normal public railway service in Germany obligatory need an additional national certificate (Part B).

1.2 Safety Management System (Part A)

For attainment of Part A of the SiBE the railway traffic companies have to prove that the safety management system is implemented, carried into effect and maintained by fulfilling the – in agreement with the company activities – requirements specified in Annex III of the Directive 2004/49/EC and that they are able to control all risks including maintenance work, material procurement and the award of service agreements.

At the latest four month after submission of all decision-relevant documents the safety authority decides over the application on issue of SiBe (Part A). If the safety authority identifies any failures in the presented documents it has to give opportunity for remedial action. The time for remedy of failures accordingly retards the given working period. Due to the complex structure of management systems partial examinations – in form of audits – may take place on site in the companies. For preparation of these audits the companies have to submit complete and plausible application documents in advance.

Before the publication of the decision concerning non-federal railway traffic companies with seat in the inland the responsible Land authority for the authorization acc. to § 6 General Railway Act (AEG) shall be heard and the railway safety council shall be consulted.

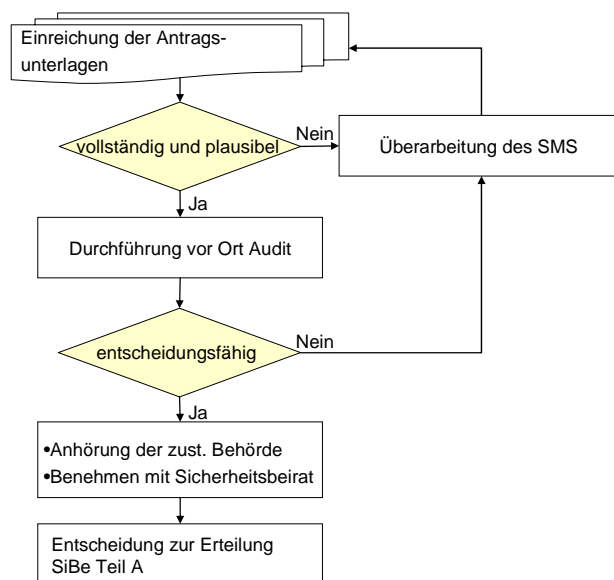


Figure 1: Schematic procedure for the issue of a Safety Certificate Part A

Note: the represented procedure does explicitly not apply for companies which choose the railway manager certificate, since the proof of a confirmed railway manager after filing of an application leads automatically – without further examination – to the issue of a Part A of the SiBe.

Depending on whether the company decides on the direct proof of the safety management system or the railway manager, the following application documents are to be submitted:

Direct proof of the safety management system:

- European application form for safety certificate part A and part B (Annex 1),
- Copy of the authorization according to § 6 AEG by the competent supervisory authority,
- Manual to the safety management system.

Railway manager certificate:

- European application form for safety certificate part A and part B (Annex 1),
- Copy of the authorization according to § 6 AEG by the competent supervisory authority,
- Copy of the confirmation of the manager as well as his representative acc. to § 2 EBV through the responsible supervisory authority.

With the railway manager certificate one presupposes that the manager and his representative have the total responsibility for the implementation, use and continuous improvement of the safety management system in the sense of the Annex III of the Directive 2004/49/EC.

The various procedures and/or company standards – in particular concerning the safety-relevant processes in the company – must be stated in detail in the manual to the safety management system. This shall be done under consideration of the requirements of article 9 and Annex III of the Safety Directive. Here it shall be described to each requirement point of the safety management system – in accordance with Annex III of the Safety Directive – by which concrete measures this point is implemented in the company and which person in the company organization is responsible for this. Provided that the Technical Specification Interoperability (TSI) „Operation“ describes procedure requirements - especially in chapter 4 - which are in connection with the respective component of the SMS, these should be processed accordingly. The training program for the personnel (chapter 4.6 TSI „operation“) shall be mentioned here exemplarily.

The structure of the safety management manual does not have to correspond with the structure of the Annex III. However, when the structure is different one has to explain in a reference document, in which management documents the appropriate requirements are considered and fulfilled with indication of the relevant sources like safety management manual, process descriptions, test instruction etc.

In order to give the applicants the greatest possible maneuvering room with the development of the individual and firm specific safety management system one does consciously resign on the demand of a special structure of the management documents. The fact that in companies already today management systems from the areas

- Quality based on DIN EN ISO 9001,
- Environment based on DIN EN ISO 14001 or
- Occupational safety and health based on OHSAS 18001 etc.

have been implemented, saves the buildup of an independent new safety management system before the aspect of the integrated management systems and the costs in connection with the buildup, implementation, realization and maintenance of management systems.

It will rather yield the results to give the companies the evaluation criteria and evaluation procedures, which have to be applied from the safety authority (Annex 2), in order to develop a safety management system according to this specifications and/or to adopt an existing system to the special application scope „safety in the system railway“.

1.3 Special requirements (Part B)

For obtaining a Part B of the safety certificate the railway companies have to proof the fulfillment of the special requirements for a safe traffic service for personnel and vehicles on the concerned system or on individual railways.

The following documents must be submitted to the safety authority for the assessment of the railway company:

- Regulations (national safety regulations and other regulations concerning the service, the personnel and the vehicles),
- Personnel (broken according to personnel categories) and
- Vehicles (broken according to vehicle types).

At the latest four month after submission of all decision-relevant documents the safety authority decides on the issue of a safety certificate (Part B). If the safety authority identifies any failures in the presented documents before expiry of the time period, it has to give the applicant the opportunity for remedial actions. The time for remedy of failures accordingly retards the given processing period. Tests and/or partial testing can be done in form of audits also on site in the companies.

With non-federal railway traffic companies with seat in the Inland the responsible Land authority for the authorization acc. to § 6 General Railway Act (AEG) has to be heard and the consultation with the railway safety council has to be established before the issue of the decision.

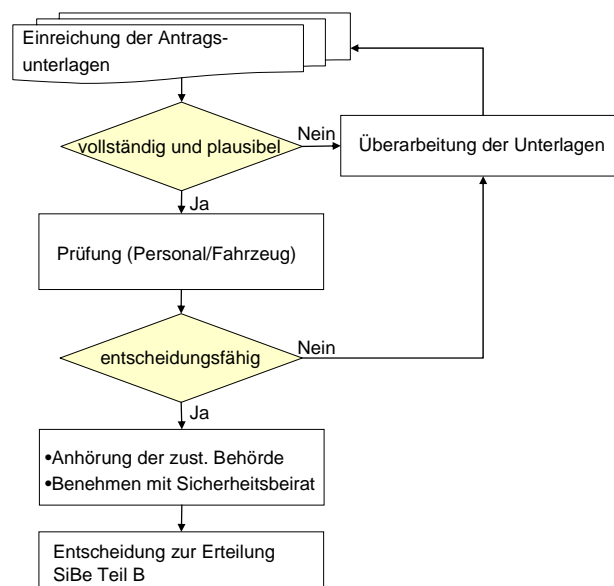


Figure 3: Schematic workflow for granting a safety certificate part B

To work on the application on the issue of a safety certificate part B the following documents have to be submitted with the application:

- European application form for safety certificates part A and B (Annex 1),
- Documents regarding to chapter 1.3.1 „regulations“,
- Documents regarding to chapter 1.3.2 „personnel“,
- Documents regarding to chapter 1.3.3 „vehicles“.

Foreign railway traffic companies must additionally present the following documents:

- Certificate for the authorization of the SMS in accordance with Article 10 para. 2 letter a of the Directive 2004/49/EC,
- Approval according to the Directive 95/18/EC,
- Proof of the conclusion of a liability insurance in accordance with EBHaftPfV
- Presentation of the safety management system of the railway traffic company.

1.3.1 Regulations

To examine the safety-relevant requirements for service, personnel and vehicles all bodies of legislations, which give the company personnel safety-relevant instructions to act or correspondent procedural instructions, have to be presented at first. These are in particular

- Rules for the performance of train runs and shunting trips in the normal and disturbance operation,
- Requirements concerning the meaning of signals,
- Rules for the dispatch of a train,
- Rules for marshalling,
- Rules for examination and operation of brakes,
- Rules how to proceed with accidents and dangerous events,
- Rules for the maintenance of vehicles.

Therefore the EVU has to list all regulations given by the railway infrastructure operator which have to be observed. Moreover the own bodies of legislations which are independent from the infrastructure specifications must be listed. With the listing of the bodies of legislations the following must be stated:

- Name of the body of legislation (Title, Number, Date),
- Content, which procedures are regulated respectively,
- Competent body for the set-up of the body of legislation,
- Distribution and publication within the EVU (including correctional management),
- Scope of application.

The bodies of legislations which have to be listed must include all information which has to be transmitted to the personnel in the context of the education and training. Moreover the railway traffic company has to present how it is guaranteed that the personnel responsible for safety-relevant tasks in the company are informed about updates (correctional management).

In the course of the issue of the safety certificate there is no examination of these regulations in detail as regards content. Here the responsibility of the railway companies acc. to § 4 para. 1 AEG is effective. The regulations shall be stated in particular to document that a comprehensible description of all safety-relevant processes is given.

Since the training of the personnel takes place on the basis of these rules they must be found in the respective training instructions. The authority reserves itself, in particular with procedures which deviate from the accepted engineering standards, to make individual case inspections on plausibility in random tests (equal safety).

1.3.2 Personnel

Personnel with safety-relevant functions are always

- managerial staff and supervisory staff during the operation of the railway,
- drivers, operators of light rail tractors, drivers of secondary vehicles, firemen,
- drivers / members of the train crew with operational tasks,
- shunters,
- employees for wagon inspection and brake tests,
- employees which fulfill forming train functions,
- employees in the planning and production of train runs,
- managerial staff and supervisory staff in maintenance workshops.

If necessary, the EVU has to identify and to supplement further personnel with safety-relevant functions. For all personnel groups in the company the proof has to be made that adequate regulations are met concerning the following points:

- education,
- advanced training,
- purchase and maintenance of lines and/or knowledge of the area,
- supervision of the qualification / fitness,
- supervision of the personnel on duty,
- measures with identified failures of the personnel,
- system for the advice of irregularities and safety-relevant questions of the personnel,
- hours of service of the personnel,
- use of external personnel.

Further functions concerning the points which have to be proved can be found in Annex 3.

With the application of the TSI, national safety regulations (Annex 4) and accepted engineering standards the proof can basically be made in tabular form. If the fulfillment of the requirements is already proved in the SMS manual a corresponding cross-reference in the table is sufficient. The exemplary structure is shown in the following table:

	Manager	Driver	...
Education			
<i>Education requirements</i>			
Body of legislation X	X	X	
Body of legislation Y ...		X	
Advanced training			
...			

With no accordance with the accepted engineering standards and/or if these are only used in extracts a tabular proof is principally not possible. In this case one has to perform the proof of equal safety.

1.3.3 Vehicles

Railway traffic companies have to verify with documents that the used vehicle types fulfill the requirements of the TSI and/or the national regulations and are duly approved (e.g. approval, authorization for placing in service).

Therefore, all vehicles operated by the company, i.e. also vehicles for which the railway traffic company is not holder but which are registered in trains, have to be assigned at first into the following vehicle types:

- Leading vehicles
 - Locomotives (electric, combustion, steam)
 - Power units (electric, combustion)
 - Railcars
 - Driving trailers (control car)
 - Light rail tractors

- Wagons
 - Passenger stocks

- Goods wagons
- Other wagons
- Secondary vehicles with power drive / leading secondary vehicles
 - Heavy small cars and heavy secondary vehicles
 - Small cars
 - Rail-road vehicles which are small cars
 - Rail-road vehicles which are heavy small cars
- Secondary vehicles without power drive
 - Heavy small cars and heavy secondary vehicles
 - Small cars

Furthermore, it has to be shown how it is guaranteed that all vehicles used are duly approved (approval, authorization for taking into service etc.). Approval documents shall be submitted only on request. Here it shall be obvious how the correct approval – as far as it concerns the applicant – is ensured with

- vehicles taken into service first-time,
- vehicles already legitimate operated in the application scope of the EBO,
- vehicles already operated abroad,
- rehired vehicles,
- vehicles taken over for transport and
- modified or renewed vehicles.

Moreover, it has to be explained how possible restrictions and/or collateral clauses are identified and respected.

For the maintenance of the safe condition of the vehicles it has to be explained with documented procedures how

- the requirements for maintenance of the safe condition of the vehicles are determined and evaluated,
- the necessary technical and organizational measures for the maintenance of the safe condition of the vehicles are determined and specified and
- the duly performance of technical measures for the maintenance of the safe condition of the vehicles is ensured and controlled.

The equipment of leading vehicles/secondary vehicles with automatic train control and train radio must be demonstrated and also how it is guaranteed that the relevant requirements of the TSI and/or the national regulations are fulfilled.

The procedures for the observance of the requirements for operational safety for the line-compatible use of vehicles agreed between the railway traffic companies and the respective railway infrastructure company have to be explained in particular concerning

- Automatic train control,
- Train radio,
- Line categories,
- Electro-magnetic compatibility,
- Fire protection,
- Emergency brake bridging etc.

Furthermore, it has to be described how it is principally ensured that all conditions for use of the infrastructure operator, relevant for the intended railway service, are identified and respected.