

National Investigation Body (NIB) Network

NIB Peer Review Report for NIB BE

Review date: 14 – 15 June 2023

PART 1 – INTRODUCTION

This report describes a Peer Review of a National Investigation Body (NIB) undertaken to meet the requirements of Article 22.7 of the European Directive on Rail Safety dated 11 May 2016 (EU 2016/798). The Article states:

The investigating bodies, with the support of the Agency in accordance with Article 38(2) of Regulation (EU) 2016/796, shall establish a programme of peer reviews where all investigating bodies are encouraged to participate so as to monitor their effectiveness and independence.

The investigating bodies, with the support of the secretariat referred to in Article 38(2) of Regulation (EU) 2016/796, shall publish:

(a) the common peer-review programme and the review criteria; and

(b) an annual report on the programme, highlighting identified strengths and suggestions for improvements.

The peer review reports shall be provided to all investigating bodies and to the Agency. Those reports shall be published on a voluntary basis.

The Peer Review seeks to monitor the effectiveness and independence of a NIB by considering its organization, processes and outputs (eg accident reports, safety recommendations, annual reports). The Peer Review process also seeks to assist development of all NIBs by sharing with them strengths and suggestions for improvements identified during reviews.

The Peer Review is based on the NIB responses to a questionnaire and on a site visit in which peer reviewers visit the NIB. Details of the questionnaire and the review criteria are given in the NIB Peer Review Handbook for the year in which the review was carried out. This can be found at [\[link to website\]](#).

The Peer Review relies on answers given by the NIB in the questionnaire and during the site visit. The Peer Review process is not intended to fully investigate all issues covered by the questionnaire and does not address all issues in the documents used as review criteria. It is targeted at issues where the reviewers believe there will be greatest value to the NIB being reviewed and to other NIBs.

This peer review report has been prepared by the NIB peer review team in the frame of the common peer-review programme established by the investigating bodies in accordance with Article 22(7) of the Directive (EU) 2016/798 on railway safety.

The NIB peer review team examined data during the peer review of the NIB using the process described in the Peer Review Handbook. The collection of data was based on the review of some documents, internal procedures or case studies provided on a voluntary basis, as well as on interviews with management and other staff members of the NIB.

The report reflects the collective judgement of the peer-review team regarding the findings resulting from the peer-review process. However, the individual members of the peer-review team and their NIBs are not liable for the contents of the report and/or for any omissions.

The peer review report will be provided to all investigating bodies and to the European Union Agency for Railways. It is owned by the reviewed NIB and shall not be published or supplied to other parties without the prior written consent of this NIB.

PART 2 – BACKGROUND AND STATISTICS

The information in the following tables is taken from the completed questionnaire.

Table A – NIB & Review Information	
National Investigation Body (NIB)	Rail Accident and Incident Investigation Unit
NIB type (eg multi-modal)	Single modal.
Date questionnaire completed by NIB	22 March 2023.
Date of site visit	14 - 15 June 2023.
Date report finalised by Peer Review Panel	13 October 2023.
Peer Review Panel members (name/state)	1. Johan Gustafsson, NIB SE 2. David Murton, NIB IE 3 - Dominique Louis, NIB UK
Observers (name/state)	1. Anita Koprivnjak, The Agency (ERA) 2. Laetitia Fontaine, NIB FR
Route length of track in NIB's country (kilometres)	3613 km of lines or 6535 km of main tracks
Freight rail traffic in NIB's country (train-kilometres per year)	2021: 12 302 078 train-km
Passenger rail traffic in NIB's country (passenger-kilometers per year)	2021: 86 123 238 train-km

Table B – Staffing

B1	Number of permanently employed rail investigators (including part time workers).	3
B2	Full time equivalent number of permanently employed rail investigators.	3
B3	Full time equivalent number of administrative staff permanently employed on rail investigators.	1
B4	Number permanently employed rail investigators who can act as Investigator in Charge.	3
B5	Are there investigators not permanently employed by the NIB who can be employed on an ad hoc basis. Briefly explain the contractual arrangements.	N/A
B6	If the NIB is multi-modal or has formalised arrangements with an independent national investigation body for other transport modes, how many investigators from other modes can assist rail investigators? If some are part time, give full time equivalent.	N/A

Table C – NIB Activity Averaged Over Last 3 Years (include any joint investigations) 2019 – 2021.

		Heavy rail			Metro railways		Trams		Other (trolley bus, cable car, etc.)	
		Article 20(1) accidents	National law requirement outside Article 20(1)	Discretion to investigate other events	National law requirement	Discretion to investigate other events	National law requirement	Discretion to investigate other events	National law requirement	Discretion to investigate other events
C1	In NIB scope? (delete as appropriate)	Yes	Yes	Yes	No	No	No	No	No	No
C2	Number of notifications per year averaged over last 3 years	1	0	104.6 (314)	0	0	0	0	0	0
C3	Average number of accidents investigated per year*	1 (3)	0	9 (6+ 21)	0	0	0	0	0	0
C4	Average number of incidents investigated per year	Not applicable to Article 20(1) investigations	0	3.66 (2+9)	0	0	0	0	0	0
C5	Average number of full investigation reports published per year	1 (3)	0	2.66 (8)	0	0	0	0	0	0
C6	Average number of briefing notes (or similar short documents) published per year	1 (3)	0	2.66 (8)	0	0	0	0	0	0
C7	Average number of recommendations produced per year	0.6 (2)	0	4.3 (13)	0	0	0	0	0	0

Table D – Outcome of recommendation made during the last 5 Years, 2017 - 2021

Please include an estimate for the likely outcome for recommendations which have not yet been closed.
Please take account of information obtained informally and information provided formally by the NSA etc.

* 'reasonable time period', 'excessive delay' and 'not implemented effectively' refer to the NIB's opinion.

		Heavy Rail		Metro railways	Trams	Other (trolley bus, cable car, etc.)
		Article 20(1) accidents	Other investigations			
D1	Proportion of recommendations implemented effectively within a reasonable* time period					
D2	Proportion of recommendations implemented effectively but after an excessive delay*					
D3	Proportion of recommendations reported as implemented but not implemented effectively*	0	0			
D4	Proportion of recommendations reported as not implemented		46 % in progress			
	Total	100%				

Table E - Number of joint investigations with other NIBs - Averaged over 3 Years

E1	Deployed (Some or all work undertaken out of the office)	0
E2	Not deployed (All work undertaken from the office)	0

Table F - Number Of Open Investigations and average times to complete investigations

		<i>At the time of completing this questionnaire</i>	<i>At the time of the Peer Review visit (to be completed during the visit)</i>
F1	Investigations required by Article 20(1)	1	
F2	National law requirement outside Article 20(1)	1	
F3	Non-mandatory accidents and incidents	1	
F4	Other investigations (e.g. class investigation)	1	
F5	Average time to complete mandatory investigations (average of investigations completed in previous three years)	20 months	15 months
F6	Average time to complete non-mandatory investigations (average of investigations completed in previous three years)	11,14 months	12 months

Comments on data provided by NIB in tables A to F

Comments from NIB BE

The NIB is a small structure with a good team cohesion where the staff's different basic profiles make it possible to approach investigations from several and different points of view.

The RAIU benefits from the infrastructures of the Federal Public Service while maintaining its independence: a Service Level Agreement has been agreed between the two parties.

The RAIU's budget allows

- to purchase the necessary equipment
- to continuously train the investigators to have a good level of knowledge on numerous subjects
- to call on external expertise, when needed, both in the technical field and in the HOF field

With its database, the NIB possesses information about numerous events and is able to carry out research in the event of an accident.

The NIB develops "fiches memo" for the preservation of knowledge and the memory reactivation/ refreshing.

PART 2 – COMMENTS FROM PEER REVIEW PANEL

The comments of the Peer Review Panel should address the NIB Peer Review objectives which are to:

- Help NIBs improve practices where this is identified as necessary to meet the requirements of Directive (EU) No 2016/798.
- Assist individual NIBs establish and maintain a sufficiently resourced capability for the investigation of serious accidents and, where appropriate, other, accidents and incidents affecting railway safety.
- Assist NIBs to act effectively and independently.
- Encourage an active exchange of views and experience for the purposes of the development of common investigation methods, drawing up common principles for follow up of safety recommendations and adaption to the development of technical and scientific progress.
- Encourage effective arrangements for cooperation between NIBs when necessary.
- Spread good practice amongst NIBs by sharing information about strengths identified during reviews.

Legal framework (100 series questions in questionnaire)

- Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (recast) seems to have been implemented in the national Belgian legislation.
- The NIB appears to be independent in its organisation, legal structure and decision-making from other organisations.
- The Chief Investigator (Director, head of the NIB) is appointed by the King according to an announced public recruitment process and are sworn in by the Minister for Mobility, the FPS Mobility and Transport. The Chief Investigator reports directly to the minister.
- At present, the NIB consists of one Chief Investigator, one senior investigator (acts as Deputy Chief Investigator), one junior investigator and one administrator. There will be three more investigators recruited within a few months. The NIB requires a university degree (masters level) to become an investigator. The investigators do not necessarily have a background from the railway industry.
- The Chief Investigator has the freedom to adapt the organisation of her team.
- The legislation gives the NIB immediate access to the accident site. In practice, the investigators sometimes have to wait to get access to the accident site until a judicial expert arrives to the accident site and gives the NIB permission to enter the accident site contrary to Article 21(2).

Type of investigations undertaken & NIB organisation (200 series questions)

- The NIB investigates occurrences as provided for in art. 20.1 (serious accidents) and 20.2 (other accidents and incidents at the discretion of the NIB) that occurs on the Union railway system and museum railways.
- The NIB actively participates in the NIB Network meetings, Network Task Forces, etc.
- The NIB organises seminars for stakeholders in the railway industry.

Processes and Resources (300 series questions)

- The NIB budget is fixed and funded by national legislation. In practice, the NIB receives its funding from the stakeholders, 30% of the budget is financed by the holder of a safety authorisation and 70% is financed by the holders of a Part B safety certificate.
- The budget is sufficient for the needs of the NIB.
- The NIB has sufficient resources to conduct investigations of serious accidents. Necessary equipment and company cars are in place.
- The NIB is a small structure with a good team cohesion where the staff's different basic profiles make it possible to approach investigations from several different points of view.
- The NIB has developed guidance in the manual for collecting evidence onsite.
- The NIB has no written process for communication with victims and their relatives.
- The NIB has a list of external experts that the NIB can use.
- The NIB has their own equipment for on-site investigations.
- All premises for office-based activities and equipment storage are secured.
- The NIB has a good cooperation with the stakeholders throughout the investigation.
- The NIB has a procedure to plan the investigation and the next steps in the investigation process.

Training arrangements (400 series questions)

- The NIB operates four levels of training: initial training, continuous training, internal training and cross-training (where the person that has been trained delivers a presentation for the rest of the team).
- The NIB has a training program to develop investigators' skills, competence management process and an annual evaluation of the training program.
- The NIB has specific and sufficient training budget.

Notification & decision process (500 series questions)

- The NIB must be informed by the IM or RU of any serious accidents and incidents as soon as possible.
- The NIB has a 24/7 investigator 'on call' – due to the resourcing level this means that individuals needs to be on call at least every other week which is very demanding.
- All accidents and incidents reported by IM and RU are reported to the RAIU database – there are 3 levels of categorisation of events. Serious accident or incidents, significant accidents or incidents and other accidents or incidents.
- The NIB has guidance for making the decision to go on site and guidance for opening an investigation
- The NIB makes the decision on opening an investigation independently.

Evidence collection and analysis (600 series questions)

- The NIB has a procedure in the manual to collect evidence on site.
- The NIB has a good cooperation with everyone at the accident site.

- The evidence collection at the accident site can sometimes be delayed when waiting for the judicial expert but most of the time the NIB gets immediate access. Waiting for permission to enter the accident site could result in vulnerable and perishable evidence being lost (and is contrary to art. 21.2).
- The NIB has an interview procedure in the manual.
- The NIB has minimum contact (information is provided on the NIB website) with families during the investigation process.
- In the investigation report, factual evidence appears in analysis; this would normally be expected to be within the factual sections.

Report preparation and publication (700 series questions)

- The NIB publishes information about the investigations on the website, for example opening an investigation, publication of the investigation report and closing the investigation.
- The NIB has no active communication with victims and their relatives throughout the investigation process. The Directive (article 23(3)) states that the investigation shall be carried out with as much openness as possible, so that all parties can be heard and share the results. The victims and their relatives shall be given an opportunity to provide relevant technical information in order to improve the quality of the investigation report. The investigating body shall also take account of the reasonable needs of the victims and their relatives and keep them informed of the progress made in the investigation.
- The NIB has a monthly internal review of each on-going investigation and its progress.
- The draft of the investigation report is reviewed by all members of the NIB.
- The NIB follows the report structure as described in Regulation 2020/572 as close as possible.
- The NIB sends a draft report to the interested parties allowing them to comment on the report.
- The NIB sends the final investigation report to the interested parties prior to publishing.
- The NIB publishes the reports into 2 languages, French and Dutch.
- The NIB publishes the investigation reports and annual reports on its website and sends them to ERA.

Handling safety recommendations (800 series questions)

- The safety recommendations are part of the consultation process and are included in the draft report which is sent to all involved parties (incl. the NSA). The NIB also has meetings with the addressees and end implementers to discuss the recommendations. This enhances the likely acceptance of the safety recommendations.
- The manual covers the drafting of recommendations.
- The recommendations, the responses and their follow-ups are recorded in the NIB's database.

Health & safety of investigators (900 series questions)

- The NIB provides good level of health & safety protection to the NIB investigators. The investigators have two sets of PPE, one set in the on-duty vehicle and one set at the office.

- The investigator in charge (IIC) contacts the IM for safety information about the accident or incident. Regarding accidents involving dangerous goods – the IIC contacts the Fire Services who will give the IIC the authorisation to go on site when it is safe to do so.

Actions taken by the NIB relevant to the Peer Review findings

See part 3.

Identification of strength

- The NIB has a Procedure Manual
- The NIB has sufficient budget to perform their task.
- The NIB investigation staff team works well together.
- The NIB has adopted an accident investigation analysis tool (TRIPOD Beta).
- The NIB actively participates in the NIB Network, Task Forces, conferences, etc.
- The NIB organises meetings, seminars with industry to discuss and highlight ongoing issues.
- The NIB has a good cooperation with the stakeholders throughout the investigation.

Panel comments of effectiveness

- The NIB generally performs effectively.
- The NIB operates in line with its national legislation.
- The NIB does not finalise all reports within 12 months.
- The reports reviewed by the panel were technically well supported, and identified causal and contributing factors.
- Recommendations in the reports are drafted objectively and clearly identify the safety objective and the implementer.
- Recommendations for the improvement of safety and prevention on similar accidents are issued as required.
- Judicial experts could cause delays to site access and possible loss of vulnerable and perishable evidence.

Panel comments on independence

- The NIB appears to operate independently. The panel did not see any evidence of external interference, however their indirect funding from the industry may be seen by some as an obstacle to independence. The financing is clearly stated in the national legislation and there are several controls and audits in place to ensure the funding's for the NIB.

Identification of areas where improvements are suggested (if any)

- The NIB may benefit from establishing a MoU with judicial authorities to guarantee immediate access to the accident site (in accordance with article 21(2) of the Directive).

- The panel strongly encourages the NIB to develop and implement a clear process of communication for the victims and relatives in accordance with article 23(3) of the Directive.
- The panel suggests that new factual evidence is not introduced in the analysis section of reports.
- When fully resourced, the NIB will be able to cover a larger number of investigations.

Additional comments by the Panel (if any).

- The panel would like to thank and show its appreciation to the NIB for volunteering to be peer reviewed and for the openness and courtesy during the process.

PART 3 – COMMENTS FROM NIB

Comments by the NIB.

Many thanks to the panel. We take note of the suggestions for improvement of our communication process and we will learn from the best practices in place and adjust our process accordingly. We will not present new factual evidence in the analysis section of the reports anymore. Furthermore, our resources will be strengthened with the arrival of two new investigators in August and October of this year, respectively.