Commission Implementing Regulation (EU) 2019/773 of 16 May 2019 on the technical specification for interoperability relating to the operation and traffic management subsystem of the rail system within the European Union and repealing Decision 2012/757/EU (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) 2019/773

of 16 May 2019

on the technical specification for interoperability relating to the operation and traffic management subsystem of the rail system within the European Union and repealing Decision 2012/757/EU

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union[(1)], and in particular Article 5(11) thereof,

Whereas:

(1) Article 11 of Commission Delegated Decision (EU) 2017/1474[(2)] sets out the specific objectives for drafting, adoption and review of technical specifications for interoperability (TSIs) of the rail system within the Union.

(2) Pursuant to points (b) and (f) of Article 3(5) of Decision (EU) 2017/1474 TSIs are to be reviewed in order to take into account the developments of the Union railway system and related research and innovation activities, and update references to standards.

(3) Pursuant to point (c) of Article 3(5) of Decision (EU) 2017/1474 TSIs should be reviewed in order to close the remaining open points. In particular, the scope of the open points for operations is to be defined and a distinction is to be made between national applicable rules and rules requiring harmonisation through Union law in order to allow for migration to an interoperable system defining the optimal level of technical harmonisation.

(4) On 22 September 2017, in accordance with Article 19(1) of Regulation (EU) 2016/796 of the European Parliament and of the Council[(3)], the Commission requested the European Union Agency for Railways (the 'Agency') to prepare recommendations implementing a selection of the specific objectives set out in Decision (EU) 2017/1474.

(5) On 25 October 2018, the Agency issued the recommendation ERA-REC-125 as regards the technical specification for interoperability (TSI) relating to the operation and traffic management subsystem of Union rail system, covering paragraphs 1 to 6 of Article 11 of Commission Delegated Decision (EU) 2017/1474.

Changes to legislation: *Commission Implementing Regulation (EU) 2019/773 is up to date with all changes known to be in force on or before 16 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(6) Commission Decision 2012/757/EU[4] has been amended on several occasions. In order to ensure the readability and the legal certainty, it is advisable to repeal it and replace it by this Regulation.

(7) Decision 2012/757/EU should thus be repealed.

(8) This Regulation should provide the implementation dates for the different requirements of the TSI relating to the 'operation and traffic management' subsystem of the Union rail system. The implementation dates should take into account that certain Member States have notified the Agency and the Commission in accordance with Article 57(2) of Directive (EU) 2016/797 and certain Member States that have not.

(9) The changes of process and responsibilities brought by Article 23 of Directive (EU) 2016/797 and by Section 4.2.2.5 and Appendix D1 of the Annex to this Regulation should be managed by the railway undertakings and where appropriate the infrastructure managers, through their respective safety management system. Moreover, railway undertakings should apply for an update of their safety certificates in accordance with Article 10(13) of Directive (EU) 2016/798 of the European Parliament and of the Council[5], if due to Article 23 the type or the extent of its operations are substantially altered, or a safety certification body so requires in accordance with Article 10(15) of Directive (EU) 2016/798.

(10) If Member States trigger the deficiency procedure in accordance with Article 6 of Directive (EU) 2016/797, the Commission and the Agency, where appropriate, should act in a timely manner to rectify the situation and issue an opinion constituting an acceptable means of compliance or correct this Regulation.

(11) The measures provided for in this Regulation are in accordance with the opinion of the Committee established in accordance with Article 51(1) of Directive (EU) 2016/797,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down the technical specification for interoperability (TSI) relating to the operation and traffic management subsystem of Union rail system, as set out in the Annex.

The TSI set out in the Annex shall apply to the operation and traffic management subsystem set out in point 2.5 of Annex II to Directive (EU) 2016/797.

Article 2

Member States shall notify the following types of agreement to the Commission by 1 January 2020, where they have not already been notified pursuant to Commission Decisions 2006/920/EC[6], 2008/231/EC[7], 2011/314/EU[8] or 2012/757/EU:

(a) bilateral or multilateral agreements between railway undertakings, infrastructure managers or safety authorities that deliver significant levels of local or regional interoperability;

(b) international agreements between one or more Member States and at least one third country, or between Member State(s') railway undertakings or infrastructure managers

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and at least one railway undertaking or infrastructure manager of a third country, that deliver significant levels of local or regional interoperability.

Article 3

The conditions to be complied with for verifying the interoperability pursuant to Article 13 of Directive (EU) 2016/797 shall be as set out in the national rules applicable in the Member State where the operation takes place, in the following situations:

(a) in the specific situations referred to in point 7.2 of the Annex to this Regulation;

(b) with regard to the topics listed as open points and areas for national rules referred to in Appendix I to that Annex.

Article 4

By 1 July 2019 at the latest, the Agency shall publish a guide on the application of the operation and traffic management subsystem (application guide). The Agency shall keep the application guide up to date.

Article 5

Decision 2012/757/EU is repealed with effect from 16 June 2021.

However, Appendix A and C of the Annex to Decision 2012/757/EU may continue to apply by 16 June 2024 at the latest.

Article 6

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

It shall apply from 16 June 2021.

However, Sections 4.2.2.1.3.2 and 4.4 of the Annex shall apply from 16 June 2019.

Section 4.2.2.5 and Appendix D1 of the Annex to this Regulation shall apply from 16 June 2019 in the Member States that have not notified the Agency and the Commission in accordance with Article 57(2) of Directive (EU) 2016/797.

[[F1]Section 4.2.2.5 and Appendix D1 of the Annex to this Regulation shall apply from 16 June 2020 in the Member States that have notified the Agency and the Commission in accordance with Article 57(2) of Directive (EU) 2016/797 and that have not notified the Agency and the Commission in accordance with Article 57(2a) of Directive (EU) 2016/797.

Section 4.2.2.5 and Appendix D1 of the Annex to this Regulation shall apply from 31 October 2020 in the Member States that have notified the Agency and the Commission in accordance with Article 57(2a) of Directive (EU) 2016/797.**]**

Appendix A and C of the Annex to this regulation shall apply from 16 June 2024 at the latest.

Textual Amendments

F1 Substituted by Commission Implementing Regulation (EU) 2020/778 of 12 June 2020 amending Implementing Regulation (EU) 2019/773 as regards the dates of application following the extension of

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the transposition deadline of Directive (EU) 2016/797 of the European Parliament and of the Council (Text with EEA relevance).

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

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ANNEX

1. INTRODUCTION

1.1. **Technical scope**

This Technical Specification for Interoperability ('TSI') covers the 'operation and traffic management' subsystem shown in the list contained in point 1 and defined in point 2.5 of Annex II to Directive (EU) 2016/797.

1.2. **Geographical scope**

The geographical scope of this Regulation is the Union's network as specified in section 1 to Annex I of Directive (EU) 2016/797 and excludes the cases referred to in Article 1(3) and 1(4) of Directive (EU) 2016/797.

1.3. **Content of this Regulation**

In accordance with Article 4(3) of Directive (EU) 2016/797, this Regulation:

(a) indicates its intended scope for the 'operation and traffic management' subsystem;

(b) lays down essential requirements for the subsystem concerned and its interfaces *vis-à-vis* other subsystems;

(c) establishes the functional and technical specifications to be met by the target subsystem and its interfaces *vis-à-vis* other subsystems. If necessary, these specifications may vary according to the use of the subsystem;

(d) determines the interoperability constituents and interfaces covered by European specifications, including European standards, which are necessary to achieve interoperability within the European rail system;

(e) states, in each case under consideration, which procedures are to be used in order to assess the conformity or suitability for use of the interoperability constituents;

(f) indicates the strategy for implementing the TSI. In particular, it is necessary to specify the stages to be completed and the elements that may be applied in order to make a gradual transition from the existing situation to the final situation in which compliance with the TSI shall be the norm;

(g) indicates, for the staff concerned, the professional qualifications and health and safety conditions at work required for the operation and maintenance of the subsystem concerned, as well as for the implementation of the TSI;

(h) indicates the provisions applicable to the existing non TSI conform subsystems and vehicles, in particular in the event of upgrading and renewal and, in such cases, the modification work which requires an application for a new authorisation;

(i) indicates the parameters of the vehicles and fixed subsystems to be checked by the railway undertaking and the procedures to be applied to check those parameters after the delivery of the vehicle authorisation for placing on the market and before the first use of the vehicle to ensure compatibility between vehicles and the routes on which they are to be operated.

Moreover, in accordance with Article 4(5) of Directive (EU) 2016/797, provision may be made for specific cases for each TSI.