Commission Regulation (EU) No 1303/2014 of 18 November 2014 concerning the technical specification for interoperability relating to 'safety in railway tunnels' of the rail system of the European Union (Text with EEA relevance)

COMMISSION REGULATION (EU) No 1303/2014

of 18 November 2014

concerning the technical specification for interoperability relating to 'safety in railway tunnels' of the rail system of the European Union

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community[(1)], and in particular Article 6(1), second subparagraph, thereof,

Whereas:

(1) Article 12 of Regulation (EC) No 881/2004 of the European Parliament and of the Council[(2)] requires the European Railway Agency ('the Agency') to ensure that the technical specifications for interoperability (the 'TSIs') are adapted to technical progress, market trends and social requirements and to propose to the Commission any amendments to the TSIs which it considers necessary.

(2) By Decision C(2010)2576 of 29 April 2010, the Commission gave the Agency a mandate to develop and review the TSI's with a view to extending their scope to the whole rail system in the Union. Under the terms of that mandate, the Agency was requested to extend accordingly the scope of the TSI relating to 'safety in railway tunnels'.

(3) On 21 December 2012, the Agency issued a recommendation on the revised TSI relating to 'safety in railway tunnels'.

(4) In order to follow technological evolution and encourage modernisation, innovative solutions should be promoted and their implementation should, under certain conditions, be allowed. Where an innovative solution is proposed, the manufacturer or his authorised representative should state how they deviate from or how they complement to the relevant section of the TSI, and the innovative solution should be assessed by the Commission. If this assessment is positive, the Agency should define the appropriate functional and interface specifications of the innovative solution and develop the relevant assessment methods.

(5) In accordance with Article 17(3) of Directive 2008/57/EC, Member States are to notify to the Commission and other Member States the technical rules, the conformity

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) No 1303/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

assessment and verification procedures to be used for specific cases, and the bodies responsible for carrying out these procedures.

(6) Rolling stock currently operates under existing national, bilateral, multinational or international agreements. These agreements should not hinder current and future progress towards interoperability. The Member States should therefore notify such agreements to the Commission.

(7) This Regulation should apply to tunnels irrespective of their traffic volume.

(8) Some Member States already have safety rules in place which require a higher level of safety than that mandated in this TSI. This Regulation should allow Member States keeping such rules only concerning the infrastructure, energy and operation subsystems. Such existing rules are to be considered as national safety rules within the meaning of Article 8 of Directive 2004/49/EC of the European Parliament and of the Council[(3)]. In addition, in accordance with Article 4 of this Directive, Member States shall ensure that railway safety is generally maintained and, where reasonably practicable, continuously improved, taking into consideration the development of Union legislation and technical and scientific progress and giving priority to the prevention of serious accidents. However, no additional measures should be prescribed for rolling stock.

(9) Member States are competent to define the role and responsibility of the rescue services. For tunnels falling within the scope of application of this Regulation, Member States should arrange rescue access in coordination with the rescue services. It is important to specify measures in the field of rescue which are based on the assumption that rescue services intervening in a tunnel accident shall protect lives, not material values such as vehicles or structures.

(10) Commission Decision 2008/163/EC[(4)] concerning a TSI relating to ‘safety in railway tunnels’ should hereby be repealed.

(11) In order to prevent unnecessary additional costs and administrative burden, Decision 2008/163/EC should continue to apply after its repeal to the subsystems and projects referred to in Article 9(1)(a) of Directive 2008/57/EC.

(12) The measures provided for in this Regulation are consistent with the opinion of the Committee established in accordance with Article 29(1) of Directive 2008/57/EC,

HAS ADOPTED THIS REGULATION:

Article 1

The technical specification for interoperability (TSI) relating to the ‘safety in railway tunnels’ of the rail system of the entire European Union, as set out in the Annex, is hereby adopted.

Article 2

The TSI shall apply to the control-command and signalling, infrastructure, energy, operation, as well as rolling stock subsystems as described in **[**[F1]Annex II to Directive (EU) 2016/797**]**[(5)].

The TSI shall apply to these subsystems in accordance with Section 7 of the Annex.

***Changes to legislation:** There are outstanding changes not yet made to Commission Regulation (EU) No 1303/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F1 Substituted by Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 amending Commission Regulations (EU) No 321/2013, (EU) No 1299/2014, (EU) No 1301/2014, (EU) No 1302/2014, (EU) No 1303/2014 and (EU) 2016/919 and Commission Implementing Decision 2011/665/EU as regards the alignment with Directive (EU) 2016/797 of the European Parliament and of the Council and the implementation of specific objectives set out in Commission Delegated Decision (EU) 2017/1474 (Text with EEA relevance).

Article 3

The technical and geographical scope of this Regulation is set out in Sections 1.1 and 1.2 of the Annex.

Article 4

[F1 1 With regard to specific cases listed in Section 7.3 of the Annex, the conditions to be met for the verification of the essential requirements set out in Annex III to Directive (EU) 2016/797 shall be those laid down in Section 7.3 of the Annex or by national rules in force in the Member State which authorises the placing in service of the fixed subsystems or which is part of the area of use of the vehicles covered by this Regulation.**]**

2 Within six months of the entry into force of this Regulation, each Member State shall notify the other Member States and the Commission of:

a the national rules referred to in paragraph 1;

b the conformity assessment and verification procedures to be carried out to apply the national rules referred to in paragraph 1;

[F1 c the bodies designated to carry out the conformity assessment and verification procedures for the national rules relating to the specific cases set out in point 7.3 of the Annex.**]**

Textual Amendments

F1 Substituted by Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 amending Commission Regulations (EU) No 321/2013, (EU) No 1299/2014, (EU) No 1301/2014, (EU) No 1302/2014, (EU) No 1303/2014 and (EU) 2016/919 and Commission Implementing Decision 2011/665/EU as regards the alignment with Directive (EU) 2016/797 of the European Parliament and of the Council and the implementation of specific objectives set out in Commission Delegated Decision (EU) 2017/1474 (Text with EEA relevance).

Article 5

1 Member States shall notify to the Commission the following types of agreement within six months of the entry into force of this Regulation:

a national agreements between the Member States and railway undertakings or infrastructure managers, agreed on either a permanent or a temporary basis and required by the very specific or local nature of the intended transport service;

b bilateral or multilateral agreements between railway undertakings, infrastructure managers or safety authorities which deliver significant levels of local or regional interoperability;

c international agreements between one or more Member States and at least one third country, or between railway undertakings or infrastructure managers of Member States

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) No 1303/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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

2 The agreements which have already been notified under Commission Decision 2006/920/EC[6], 2008/231/EC[7], 2011/314/EU[8] or 2012/757/EU[9] shall not be notified again.

3 Member States shall forthwith notify to the Commission any future agreements or modifications of the existing and already notified agreements.

Article 6

In accordance with Article 9(3) of Directive 2008/57/EC, each Member State shall communicate to the Commission within one year of the entry into force of this Regulation the list of projects being implemented within its territory and that are at an advanced stage of development.

[F2Article 7

. . . . . .

Textual Amendments

F2 Deleted by Commission Regulation (EU) 2016/912 of 9 June 2016 correcting Regulation (EU) No 1303/2014 concerning the technical specification for interoperability relating to 'safety in railway tunnels' of the rail system of the European Union (Text with EEA relevance).

Article 8

1 In order to keep pace with technological progress, innovative solutions may be required which do not comply with the specifications set out in the Annex and/or for which the assessment methods set out in the Annex cannot be applied. In that case, new specifications and/or new assessment methods associated with those innovative solutions may be developed according to the provisions of paragraphs 2 to 5.

2 Innovative solutions may be related to the subsystems referred to in Article 2, their parts and their interoperability constituents.

3 If an innovative solution is proposed, the manufacturer or his authorised representative established within the Union shall declare how it deviates from or complements to the provisions of the relevant TSIs and shall submit the deviations to the Commission for analysis. The Commission may request the opinion of the Agency on the proposed innovative solution.

4 The Commission shall deliver an opinion on the innovative solution proposed. If this opinion is positive, the appropriate functional and interface specifications and the assessment method, which need to be included in the relevant TSIs in order to allow the use of this innovative solution, shall be developed and subsequently integrated into the relevant TSIs during the revision process pursuant to **[**[F1]Article 5 of Directive (EU) 2016/797**]**. If the opinion is negative, the innovative solution proposed cannot be applied.

5 Pending the review of the relevant TSIs, a positive opinion delivered by the Commission shall be considered as an acceptable means of compliance with the essential requirements of **[**[F1]Directive (EU) 2016/797**]** and may be used for the assessment of the subsystem.

***Changes to legislation:** There are outstanding changes not yet made to Commission Regulation (EU) No 1303/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Textual Amendments

F1 Substituted by Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 amending Commission Regulations (EU) No 321/2013, (EU) No 1299/2014, (EU) No 1301/2014, (EU) No 1302/2014, (EU) No 1303/2014 and (EU) 2016/919 and Commission Implementing Decision 2011/665/EU as regards the alignment with Directive (EU) 2016/797 of the European Parliament and of the Council and the implementation of specific objectives set out in Commission Delegated Decision (EU) 2017/1474 (Text with EEA relevance).

Article 9

Decision 2008/163/EC is repealed with effect from 1 January 2015.

It shall however continue to apply to:

(a) subsystems authorised in accordance with that Decision;

(b) projects for new, renewed or upgraded subsystems which, at the time of publication of this Regulation, are at an advanced stage of development or are the subject of a contract which is being carried out.

Article 10

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 1 January 2015.

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