Commission Regulation (EU) No 1301/2014 of 18 November 2014 on the technical specifications for interoperability relating to the 'energy' subsystem of the rail system in the Union (Text with EEA relevance)

COMMISSION REGULATION (EU) No 1301/2014

of 18 November 2014

on the technical specifications for interoperability relating to the 'energy' subsystem of the rail system in the 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) 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 the 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 TSIs 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 the scope of the TSI relating to the subsystem 'energy', to the whole rail system in the Union.

(3) On 24 December 2012, the Agency issued a recommendation on the amendments to the TSI relating to the subsystem 'energy' (ERA/REC/11-2012/INT).

(4) In order to keep pace with technological progress 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 it deviates from or how it complements the relevant section of the TSI, and the innovative solution should be assessed by the Commission. If this assessment is positive, the Agency should devise the appropriate functional and interface specifications of the innovative solution and develop the relevant assessment methods.

(5) The TSI energy established by this Regulation does not deal with all essential requirements. In accordance with Article 5(6) of Directive 2008/57/EC, technical

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aspects which are not covered by it should be identified as 'open points' governed by national rules applicable in each Member State.

(6) In accordance with Article 17(3) of Directive 2008/57/EC, Member States are to notify to the Commission and other Member States the conformity assessment and verification procedures to be used for the specific cases as well as the bodies responsible for carrying out these procedures. The same obligation should be provided as regards to open points.

(7) Rail traffic currently operates under existing national, bilateral, multinational or international agreements. It is important that these agreements do not hinder current and future progress towards interoperability. The Member States should therefore notify such agreements to the Commission.

(8) In accordance with Article 11(5) of Directive 2008/57/EC, the TSI on energy should allow, for a limited period of time, for interoperability constituents to be incorporated into subsystems without certification if certain conditions are met.

(9) Commission Decisions 2008/284/EC[(3)] and 2011/274/EU[(4)] should therefore be repealed.

(10) In order to prevent unnecessary additional costs and administrative burden, Decisions 2008/284/EC and 2011/274/EU should continue to apply after their repeal to the subsystems and projects referred to in Article 9(1)(a) of Directive 2008/57/EC.

(11) In order to ensure the interoperability of energy subsystem, a plan for a progressive implementation should be set out.

(12) As data collecting system gathers data from on-board energy measuring systems, Member States should ensure that a system capable to receive such data is developed and accepted for billing purposes.

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

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

The technical specification for interoperability (TSI) relating to the 'energy' subsystem of the rail system in the entire European Union, as set out in the Annex, is hereby adopted.

Article 2

Scope

1 The TSI shall apply to any new, upgraded or renewed 'energy' subsystem of the rail system in the European Union as defined in **[**[F1]point 2.2 of Annex II to Directive (EU) 2016/797 of the European Parliament and of the Council**]**[(5)].

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2 Without prejudice to Articles 7 and 8 and point 7.2 of the Annex, the TSI shall apply to new railway lines in the European Union, which are placed in service from 1 January 2015.

3 The TSI shall not apply to existing infrastructure of the rail system in the European Union, which is already placed in service on all or part of the network of any Member State on 1 January 2015, except when it is subject to renewal or upgrading in accordance with **[**[F1]Article 18 of Directive (EU) 2016/797**]** and Section 7.3 of the Annex.

[[F1]4 The TSI shall apply to the network of the Union rail system as described in Annex I of Directive (EU) 2016/797 with the exclusion of cases referred to in Article 1(3) and (4) of Directive (EU) 2016/797.**]**

5 The TSI shall apply to networks with the following nominal track gauges: 1 435 mm, 1 520 mm, 1 524 mm, 1 600 mm and 1 668 mm.

6 Metric gauge is excluded from the technical scope of this TSI.

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).

[F2]Article 3

[[F2]Open points**]**

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Textual Amendments

F2 Deleted by Commission Implementing Regulation (EU) 2018/868 of 13 June 2018 amending Regulation (EU) No 1301/2014 and Regulation (EU) No 1302/2014 as regards provisions on energy measuring system and data collecting system (Text with EEA relevance).

Article 4

Specific cases

[[F1]1 With regard to specific cases listed in Section 7.4.2 of the Annex, the conditions to be met for the verification of compliance with the essential requirements set out in Annex III to Directive (EU) 2016/797 shall be those laid down in Section 7.4.2 of the Annex or by national rules in force in the Member State which authorises the placing in service of the subsystem covered by this Regulation.**]**

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

a the national rules referred to in paragraph 1;

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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 7.4.2 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

Notification of bilateral agreements

1 Member States shall notify the Commission, no later than 1 July 2015, any existing national, bilateral, multilateral or international agreements between Member States and railway undertaking(s), infrastructure managers or non-member countries which are required by the very specific or local nature of the intended rail service or which deliver significant levels of local or regional interoperability.

That obligation does not apply to agreements which have already been notified under Commission Decision 2008/284/EC.

2 Member States shall notify the Commission of any future agreements or amendments to existing agreements.

Article 6

Projects at an advanced stage of development

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 are at an advanced stage of development.

Article 7

‘EC’ certificate of verification

1 An ‘EC’ certificate of verification for a subsystem that contains interoperability constituents which do not have an ‘EC’ declaration of conformity or suitability for use, may be issued during a transitional period ending on 31 May 2021, provided that the requirements laid down in point 6.3 of the Annex are met.

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2 The production, upgrade or renewal of the subsystem with use of the non-certified interoperability constituents shall be completed within the transitional period set out in paragraph 1, including its placing in service.

3 During the transitional period set out in paragraph 1:

a the reasons for non-certification of any interoperability constituents shall be properly identified by the notified body before granting the 'EC' certificate pursuant to **[**F1Article 15 of Directive (EU) 2016/797**]**;

b the national safety authorities, pursuant to **[**F1Article 16(2)(d) of Directive (EU) 2016/798 of the European Parliament and of the Council**]**(6), shall report on the use of non-certified interoperability constituents in the context of authorisation procedures in their annual report referred to in **[**F1Article 19 of Directive (EU) 2016/798**]**.

4 From 1 January 2016, newly produced interoperability constituents shall be covered by the EC declaration of conformity or suitability for use.

Textual Amendments

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Article 8

Conformity assessment

1 The procedures for assessment of conformity, suitability for use and 'EC' verification set out in Section 6 of the Annex shall be based on the modules established in Commission Decision 2010/713/EU(7).

2 The type or design examination certificate of interoperability constituents shall be valid for a seven-year period. During that period, new constituents of the same type are permitted to be placed into service without a new conformity assessment.

3 Certificates referred to in paragraph 2 which have been issued according to the requirements of Commission Decision 2011/274/EU (TSI ENE CR) or Commission Decision 2008/284/EC (TSI ENE HS) remain valid, without a need for a new conformity assessment, until the expiry date originally established. In order to renew a certificate, the design or type shall be reassessed only against new or modified requirements set out in the Annex to this Regulation.

Article 9

Implementation

1 Section 7 of the Annex sets out the steps to be followed for the implementation of a fully interoperable energy subsystem.

Without prejudice to Article 20 of Directive 2008/57/EC, Member States shall prepare a national implementation plan, describing their actions to comply with this TSI, in