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Clarification note

Area of use of vehicles used under RIC/RIV agreements after a change that requires a new authorisation

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Document History

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1.0	02/04/2020	Initial version

The purpose of this document is to provide applicants and other external stakeholders of the vehicle authorisation business with information in regards to the specific topic referenced in the title. The clarifications contained in this document may be integrated in the next revision of the guidelines for the practical arrangements for the vehicle authorisation process, without prejudice of the formal process foreseen for updating the guideline.

The present document is a non-legally binding guidance of the European Union Agency for Railways. It is without prejudice to the decision-making processes foreseen by the applicable EU legislation. Furthermore, a binding interpretation of EU law is the sole competence of the Court of Justice of the European Union.

1. Description of the issue

The recently published Regulation (EU) 2020/387 brings some amendments to the Regulation (EU) 312/2013 (WAG TSI) and to the Regulation (EU) 1302/2014 (LOC&PAS TSI). In particular, it clarifies that:

- Vehicles used under RIV (Regolamento Internazionale Veicoli) or RIC (Regolamento Internazionale Carrozze) agreements shall be deemed authorised with the conditions under which they were used, including the area of use where they are operated, and
- In case of a change requiring a new authorisation the changed vehicles shall conserve the area of use in which they were operating without further checks on the unchanged parts.

The Regulation (EU) 2018/545 requires that the applicant:

- Specifies the area of use of the vehicle seeking authorisation, and
- Provides evidence in the file accompanying the application for authorisation of the previous authorisations of the vehicle

However, the legal texts do not describe which type of evidence the applicant can provide to document the area of use in which the vehicles were actually operating before the change. This is particularly relevant as it is not always possible to find an authorisation or any other document related to the acceptance or admission of a given vehicle into operation in a Member State (MS), or in a certain network, group of networks, or parts within networks.

2. Line to take

According to the amendments in provisions 7.2.2.4 of WAG TSI and 7.1.4 of LOC&PAS TSI brought by the Regulation (EU) 2020/387, the area of use of vehicles used under RIV/RIC agreements following a change that requires a new authorisation pursuant to Article 21(12) of Directive (EU) 2016/797 and Article 15 of Regulation (EU) 2018/545 shall be limited to the area of use in which they were actually operated before the change.

In order to document the area of use in which they were operating, the Agency, when acting as authorising entity, will take into consideration any one or more of the following element(s):

- Data in the national vehicle registers (NVR) in accordance with Decision 2007/756/EC or in the European Centralised Virtual Vehicle Register (ECVVR) in accordance with Decision (EU) 2018/1614;
- Maintenance records from Entities in Charge of Maintenance (ECMs) or contracts signed with ECMs for the provision of maintenance services;
- Evidence produced by the Infrastructure Managers regarding the allocation of capacity in the network;
- Evidence produced by Railway Undertakings (RUs) regarding the incorporation of such vehicles into trains to cover services in certain networks/lines;
- Contracts with leasing companies or RUs regarding the provision of traction services within certain networks/lines;
- Signed declarations by RUs, describing the actual area of operation of the vehicles; and/or
- Any other suitable evidence.

The applicant should provide the relevant evidence in the file accompanying the application for authorisation.

Note:

When the area of use is limited to one MS, every vehicle should be registered in only that MS's National Vehicle Register (NVR). Any future changes to the area of use should only be recorded in the NVR where the authorisation was initially registered.

When the area of use for a vehicle covers more than one MS then it should be registered in only one of the MSs concerned and the keeper should decide in which of the concerned MSs it wants to register its vehicle. For wagons compliant with paragraph 7.1.2 of the Annex of the WAG TSI, the vehicle keeper should decide in which MS the vehicle should be registered. When the keeper registers its vehicle, it should also indicate all MSs in which the vehicle is authorised and the area of use covered by the authorisation.

When the area of use of the vehicle is extended:

- *The vehicle should be registered only in the NVR of the MS where the vehicle was initially authorised.*
- *The keeper should request the registration entity to update the registration with the details on the reference to the vehicle type authorisation covering the extended area of use.*

3. Legal background

a) Directive (EU) 2016/797

- › Article 54(2). Transitional regime for using vehicles

“Authorisations for the placing in service of vehicles which have been granted pursuant to paragraph 1 and all other authorisations granted prior to 15 June 2016, including authorisations delivered under international agreements, in particular RIC (Regolamento Internazionale Carrozze) and RIV (Regolamento Internazionale Veicoli), shall remain valid in accordance with the conditions under which the authorisations have been granted.”

b) Regulation (EU) 2020/387

- › Article 1. Amendments to WAG TSI

“Regulation (EU) No 321/2013 is amended as follows:

(1) Article 3 point (d) is added as follows:

‘(d) when the area of use is extended in accordance with art. 54(3) of Directive (EU) 2016/797, provisions in Section 7.2.2.4 of the Annex to this Regulation shall apply;’

(2) the Annex is amended in accordance with Annex I to this Regulation”

- › Annex I

“The Annex to Regulation (EU) No 321/2013 is amended as follows:

[...]

(10) the following clause 7.2.2.4 is added:

‘7.2.2.4. Rules for the extension of the area of use for existing units having an authorisation in accordance with Directive 2008/57/EC or in operation before 19 July 2010

[...]

(7) In accordance with Article 54(2) of Directive (EU) 2016/797, wagons used under Regolamento Internazionale Veicoli (RIV) shall be deemed authorised in accordance with the conditions under which they were used, including the area of use where they are operated. Following a change which requires a new authorisation for placing on the market in accordance with Article 21(12) of Directive (EU) 2016/797, wagons accepted under the latest RIV agreement shall conserve the area of use in which they were operating without further checks on the unchanged parts.’

[...]”.

› Article 2. Amendments to LOC&PAS TSI

“Regulation (EU) No 1302/2014 is amended as follows:

(1) Article 3 paragraph 2 is amended as follows:

‘The TSI shall not apply to existing rolling stock of the rail system in the Union which is already placed in service on all or part of the network of any Member State on 1 January 2015, except when

(a) it is subject to renewal or upgrading in accordance with Section 7.1.2 of the Annex to this Regulation or

(b) when the area of use is extended in accordance with Article 54(3) of Directive (EU) 2016/797, then the provisions in Section 7.1.4 of the Annex to this Regulation shall apply.

(2) in the second subparagraph of Article 11(1), the introductory phrase is replaced by the following:

‘They shall however continue to apply, without prejudice to clauses 7.1.1.4 to 7.1.1.8 of the Annex, to:’;

(3) the Annex is amended in accordance with Annex II to this Regulation.”

› Annex II

“The Annex to Regulation (EU) No 1302/2014 is amended as follows:

[...]

(7) the following clause 7.1.4 is added:

‘7.1.4. Rules for the extension of the area of use for existing rolling stock having an authorisation in accordance with Directive 2008/57/EC or in operation before 19 July 2010

[...]

(7) In accordance with Article 54(2) of Directive (EU) 2016/797, coaches used under Regolamento Internazionale Carrozze (RIC) shall be deemed authorised in accordance with the conditions under which they were used, including the area of use where they are operated. Following a change which requires a new authorisation for placing on the market in accordance with Article 21(12) of Directive (EU) 2016/797, coaches accepted under the latest RIC agreement shall conserve the area of use in which they were operating without further checks on the unchanged parts.’

[...]’ ”