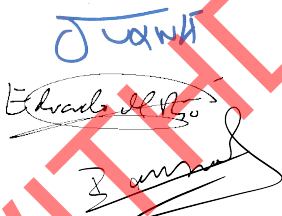

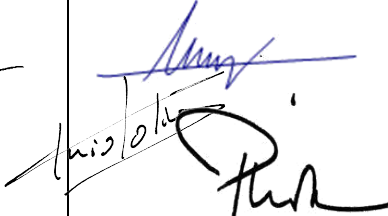


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Clarification note

Extension of the area of use of vehicles authorised under Directive 2008/57/EC or in operation before 19 July 2010 where identical vehicles (same design) are already authorised and in operation in the extended area of use

	<i>Drafted by</i>	<i>Validated by</i>	<i>Approved by</i>
<i>Name</i>	N. BOUSSOUF E. DELRIO J. HERNÁNDEZ	T. BREYNE	P. GUIDO I. MÉNDEZ O. PIRON
<i>Position</i>	Project Officer	Team Leader	Head of Unit
<i>Date</i>	13/01/2021	13/01/2021	13/01/2021
<i>Signature</i>			

Document History

<i>Version</i>	<i>Date</i>	<i>Comments</i>
1.0	13/01/2021	First edition

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 Railway Agency. 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 process to follow for the extension of the area of use of already authorised vehicles and/or vehicle types is described in:

- › Directive (EU) 2016/797, in particular Article 21(13)
- › Regulation (EU) 2018/545, in particular Articles 14(1)(c), 14(2) 30(2) and 39(4)
- › For the extension of the area of use of vehicles having an authorisation in accordance with Directive 2008/57/EC or in operation before 19 July 2010:
 - Regulation (EU) 1302/2014 (LOC&PAS TSI), in particular clause 7.1.4
 - Regulation (EU) 321/2013, in particular clause 7.2.2.4
 - Regulation (EU) 2016/919, in particular clause 7.4.2.4

While the description of the process to follow for the extension of the area of use of an authorised vehicle type does not seem to raise doubts, the extension of the area of use of vehicles having an authorisation in accordance with Directive 2008/57/EC or in operation before 19 July 2010 triggers some recurrent questions.

This is the case of vehicles already authorised and currently operating in a MS A, where there is a need to extend their area of use to a MS B, and there are vehicles of the same design (identical) already authorised and in operation for an area of use covering MS A and MS B (normally authorised under Directive 2008/57/EC or in operation before 19 July 2010).

WITHDRAWN

2. Line to take

The process to follow for the extension of the area of use of already authorised vehicles under directive 2008/57/EC or in operation before 19 July 2010 depends on several aspects, in particular, whether there is a type authorisation covering the extended area of use or not. The most frequent cases identified so far are covered in the following sections.

In all cases, the vehicles seeking an extension of the area of use shall:

- › remain authorised or in operation in the original area of use;
- › have a valid registration in the National Vehicle Register or in the European Vehicle Register, and
- › have been maintained in a safe state of running, in accordance with Regulation (EU) 2019/779, where applicable; this aspect should be managed by the concerned RU(s) under the provisions of their safety management system.

The guidelines for the practical arrangements for the vehicle authorisation process (ERA-PRG-005/02-361 v1.0) provides further details about the evidence related to the previous authorisation in section 3.10.1 and in guidance to point 18.6 of Annex I of the Regulation (EU) 2018/545.

Note: the ECM appointed by the keeper has the obligation to keep all the technical data related to maintenance.

2.1 Case 1: there is a type authorisation covering the extended area of use

For the extension of the area of use of vehicles where there is an existing valid type authorisation covering MS A and B (be it a type first authorised in MS A and additionally authorised in MS B under Directive 2008/57/EC or a version following the extension of the area of use to MS B under Directive (EU) 2016/797), the company interested in extending the area of use to MS B can apply for an authorisation in conformity to the relevant type/version for the existing vehicles, pursuant to Article 14(1)(e) of Regulation (EU) 2018/545.

It is not mandatory that the applicant is the holder of the relevant type authorisation (by analogy to the authorisation for placing on the market of newly built vehicles in conformity to an authorised vehicle type). The applicant takes the sole responsibility for ensuring that it has enough knowledge, competences and legal rights to manufacture and apply for the authorisation for placing on the market, ensuring that the vehicles are conforming to the type and therefore meet all the essential requirements.

Where the authorised type benefited from non-application of TSIs or part of them pursuant to Article 9 of Directive 2008/57/EC, the applicant should verify whether the scope of the granted non-application covers the additional vehicles or not. If the additional vehicles are not covered, the applicant shall seek non-application of the TSIs in the Member States of the extended area of use in accordance to Article 7 of Directive (EU) 2016/797.

2.2 Case 2: there is neither a type authorisation covering MS A and B nor identical vehicles already authorised in both MSs

This case is considered an extension of the area of use pursuant to Article 14(1)(c) of Regulation (EU) 2018/545. The applicant needs to demonstrate the technical compatibility with the networks of the extended area of use, pursuant to Article 21(3) of Directive (EU) 2016/797. The assessments to be performed by the Agency and the concerned NSAs for the Area of Use shall be limited to the applicable national rules and to the technical compatibility between the vehicle and the network for the extended area of use (including specific cases and open points in the TSIs). Checks already carried out at the previous authorisation shall not be repeated.

Where a TSI contains specific provisions for the extension of the area of use (e.g. clause 7.1.4 of LOC&PAS TSI, clause 7.2.2.4 of WAG TSI and clause 7.4.2.4 of CCS TSI) and they are applicable to the vehicle, the applicant needs to perform the actions required by the legal texts, and the related evidence will be assessed by the Agency and the NSAs for the area of use.

The result of the authorisation for the extended area of use will be a new vehicle type authorisation (because there is no previous vehicle type authorisation, the applicant cannot be the holder of said previous vehicle type authorisation) for the area of use covering MS B (it will rely on the existing authorisation for MS A though).

Once the new vehicle type is authorised, other existing vehicles concerned can be authorised for the extended area of use of MS B by means of the authorisation case described in Article 14(1)(e) of Regulation (EU) 2018/545 (conformity to an already authorised vehicle type). Such vehicles will be able to operate in MS A and MS B.

Note: the possibility to authorise vehicles in conformity to the new vehicle type is limited to existing vehicles (already authorised or in operation before 19 July 2010 in MS A) currently in operation and maintained in a safe state of running, in accordance with Regulation (EU) 2019/779 where applicable. Newly built vehicles shall comply with the latest TSIs in force (including transitional provisions) or benefit from a non-application of the concerned TSIs.

2.3 Case 3: there is no type authorisation covering MS A and B, but some identical vehicles were already authorised in the past in both MSs under directive 2008/57/EC or 2016/797/EU or placed in operation before 19 July 2010

Similarly to case 2, this is considered an extension of the area of use pursuant to article 14(1)(c) of Regulation (EU) 2018/545, resulting in a type authorisation with an area of use limited to MS B (it will rely on the existing authorisation for MS A).

The particular rules for the extension of the area of use laid down in the TSIs shall be applied:

- › Rolling Stock Subsystem: clause 7.1.4 of LOC&PAS TSI or clause 7.2.2.4 of WAG TSI

For demonstrating compliance with requirements defined in clause 7.1.4(2) for LOC&PAS or clause 7.2.2.4(2) for WAG, the applicant can use the fact that there are existing identical vehicles authorised in both MSs, and that the authorisation remains valid, in order to:

- Proof compliance with alternative specifications deemed to have equivalent effect to the relevant requirements set out in the TSI and/or
- Gather evidence that the requirements for technical compatibility with the network of the extended area of use are equivalent to the requirements for technical compatibility with the network for which the rolling stock is already authorised or in operation

For such demonstration, the applicant should apply the risk management process set out in Annex I of Regulation (EU) No 402/2013 that allows use of a code of practice and/or similar reference system(s) and/or explicit risk estimation. Indeed, the TSI require that the equivalent effect of alternative specifications to the requirements of the TSI and the equivalence of requirements for technical compatibility with the network shall **be justified and documented** by the applicant. The justification has to be assessed and confirmed by an assessment body (CSM RA).

The applicant shall also take into consideration the impact of the modifications in the vehicles that remain authorised only in MS A (if any) since the moment the authorisation was granted in MS B. It shall also take into account the modifications brought to vehicle authorised in both MSs since they were authorised. This with the objective of ensuring that the reference vehicles (vehicles authorised in MS A and B) are identical to the vehicles seeking authorisation in MS B. Such demonstration shall be assessed by an assessment body (CSM RA).

- › For CCS Subsystem : clause 7.4.2.4 of CCS TSI

For demonstrating compliance with requirements defined in clause 7.4.2.4(1) of CCS TSI, the applicant can use the fact that there are existing identical vehicles authorised in both MSs. However, if the already authorised vehicles in MS B were not equipped with ETCS/GSM-R, but the additional vehicles to be authorised in MS B do not fall into the exceptions provided by the CCS TSI for not installing ETCS/GSM-R, e.g. 7.4.2.4(3)(a), the applicant can:

- Retrofit the vehicles with ETCS/GSM-R, and apply for a combination of new authorisation and extension of the area of use pursuant to article 14(3)(a) of Regulation (EU) 2018/545, where the modified vehicles will operate in both MSs, or
- Request a non-application of the CCS TSI pursuant to Article 7 of Directive (EU) 2016/797.

Note: the applicant can also decide to retrofit the vehicles with ETCS/GSM-R, and apply for a new authorisation for MS B (see clarification note ERA1209/037) where the modified vehicles will not operate anymore in MS A

Where the already authorised identical vehicles benefited from non-application of TSIs or part of them pursuant to Article 9 of Directive 2008/57/EC, the applicant shall seek derogation(s) in the Member States of the extended area of use in accordance to Article 7 of Directive (EU) 2016/797.

Once the new vehicle type or version of the vehicle type is authorised (depending on whether the applicant is the holder of the vehicle type authorisation or not), other existing vehicles concerned can be authorised for the extended area of use of MS B by means of the authorisation case described in Article 14(1)(e) of Regulation (EU) 2018/545 (conformity to an already authorised vehicle type). Such vehicles will be able to operate in MS A and MS B.

Note: the possibility to authorise vehicles in conformity to the new vehicle type or version is limited to existing vehicles (already authorised or in operation before 19 July 2010 in MS A) currently in operation and maintained in a safe state of running in accordance with Regulation (EU) 2019/779 where applicable. Newly built vehicles shall comply with the latest TSIs in force (including transitional provisions) or benefit from a non-application of the concerned TSIs.

WITHDRAWN

3. Legal background

a) Directive (EU) 2016/797

› Article 21(13):

“Where the applicant wishes to extend the area of use of a vehicle which has already been authorised, it shall supplement the file with the relevant documents referred to in paragraph 3 concerning the additional area of use. The applicant shall submit the file to the Agency, which shall, after following the procedures laid down in paragraphs 4 to 7, issue an updated authorisation covering the extended area of use.

If the applicant has received a vehicle authorisation in accordance with paragraph 8 and wishes to extend the area of use within that Member State, it shall supplement the file with the relevant documents referred to in paragraph 3 concerning the additional area of use. It shall submit the file to the national safety authority which shall, after following the procedures laid down in paragraph 8, issue an updated authorisation covering the extended area of use”

b) Regulation (EU) 2016/797

› Article 14. Identification of the relevant authorisation

*“1. The applicant shall identify and choose the relevant authorisation from the following cases:
[...]*

c) extended area of use: the vehicle type authorisation and/or the vehicle authorisation for placing on the market issued by the relevant authorising entity for an already authorised vehicle type and/or vehicle in order to extend the area of use without a change of the design, pursuant to Article 21(13) of Directive (EU) 2016/797;

[...]

e) authorisation in conformity to type: the vehicle authorisation for placing on the market for a vehicle or a series of vehicles that conform to an already authorised and valid vehicle type on the basis of a declaration of conformity to that type, pursuant to Article 25(1) of Directive (EU) 2016/797. Where applicable, there shall be a clear identification of the vehicle type version and/or the vehicle type variant to which the vehicle or series of vehicles is conform.

2. In cases of vehicle type authorisations pursuant to cases (c) and (d), the applicant, if he is the holder of the existing vehicle type authorisation, shall decide whether the authorisation will result in the creation of:

a) a new vehicle type; or

b) a new vehicle type variant within the existing type on which it is based.

If the applicant is not the holder of the existing type the authorisation shall result in the creation of a new type in accordance with Article 15(4).

[...]”

› Article 30. Application content and completeness

“[...]

2. For the authorisation extended area of use referred to in Article 14(1)(c), the following points shall apply:

a) the documentation to be added to the original full accompanying file for the decision issued in accordance with Article 46 by the applicant shall be limited to aspects concerning the relevant national rules and the technical compatibility between the vehicle and the network for the extended area of use;

- b) *when the original vehicle type authorisation included non-applications of TSIs, the applicant shall add the relevant decisions for non-application of TSIs in accordance with Article 7 of Directive (EU) 2016/797 covering the extended area of use to the original full accompanying file for the decision issued in accordance with Article 46;*
 - c) *in case of vehicles and/or vehicle types authorised under Directive 2008/57/EC or before, the information to be added by the applicant to the original file for the aspects covered by point (a) shall also include the applicable national rules."*
- › Article 39. The assessment of the application by the authorising entity

"4. [...] The checks to be performed by the authorising entity for an "extended area of use" authorisation as specified in Article 14(1)(c) shall be limited to the applicable national rules and to the technical compatibility between the vehicle and the network for the extended area of use. Checks already carried out at the previous authorisation shall not be repeated by the authorising entity.[...]"
- › Article 40. The assessment of the application by the concerned NSAs for the area of use

"4. The checks to be performed by the NSAs for the area of use for an extended area of use authorisation referred to in Article 14(1)(c) shall be limited to the applicable national rules and to the technical compatibility between the vehicle and the network for the extended area of use. Checks already carried out during the previous authorisation shall not be repeated by the NSAs for the area of use."

c) Regulation (EU) No 1302/2014 (LOC&PAS TSI)

- › 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

"(1) In the absence of full conformity with this TSI, point 2 applies to rolling stock that fulfils the following conditions when requesting the extension of its area of use in accordance with Article 21(13) of Directive (EU) 2016/797:

 - a) *it has been authorised in accordance with Directive 2008/57/EC or put in operation before 19 July 2010;*
 - b) *it is registered with 'Valid' registration code '00', in the National Vehicle Register in accordance with Commission Decision 2007/756/EC (1) or in the European Vehicle Register in accordance with Commission Implementing Decision (EU) 2018/1614 (2) and maintained in a safe state of running in accordance with Commission Implementing Regulation (EU) 2019/779 (3).*

The following provisions for extension of area of use apply also in combination with a new authorisation as defined in point (a) of Article 14(3) of Regulation (EU) 2018/545.

(2) Authorisation for an extended area of use of the rolling stock referred to in point 1 shall be based on the existing authorisation, if any, and on the technical compatibility between the rolling stock and the network in accordance with point (d) of Article 21(3) of Directive (EU) 2016/797 and compliance with the Basic Design Characteristics of Table 17a and 17b of this TSI, taking into account any restrictions or limitations. The applicant shall provide an 'EC declaration of verification' accompanied by technical files giving evidence of compliance with the requirements set out in this TSI, or with provisions having equivalent effect, for each basic parameter referred to in column 1 of Tables 17a and 17b and with the following clauses of this TSI:

 - *4.2.4.2.2, 4.2.5.5.8, 4.2.5.5.9, 4.2.6.2.3, 4.2.6.2.4, 4.2.6.2.5, 4.2.8.2.7, 4.2.8.2.9.8 (when running through phase or system separation sections is managed automatically), 4.2.9.3.1, 4.2.9.6, 4.2.12 and 4.2.12.6*
 - *4.2.5.3 in Italy*

- 4.2.5.3.5 and 4.2.9.2.1 in Germany
through one or a combination of the following:
- a) compliance with requirements set out in this TSI as referred above;
 - b) compliance with corresponding requirements set out in a previous TSI as referred above;
 - c) compliance with alternative specifications deemed to have equivalent effect to the relevant requirements set out in this TSI as referred above;
 - d) evidence that the requirements for technical compatibility with the network of the extended area of use are equivalent to the requirements for technical compatibility with the network for which the rolling stock is already authorised or in operation. Such evidence shall be provided by the applicant and may be based on the information of the register of railway infrastructure (RINF).

(3) The equivalent effect of alternative specifications to the requirements of this TSI (point 2(c)) and the equivalence of requirements for technical compatibility with the network (point 2(d)) shall be justified and documented by the applicant by applying the risk management process set out in Annex I of Regulation (EU) No 402/2013. The justification has to be assessed and confirmed by an assessment body (CSM RA).

(4) In addition to the requirements mentioned referred to in point 2 and where applicable, the applicant shall provide an 'EC declaration of verification' accompanied by technical files giving evidence of compliance with the following:

- a) specific cases relating to any part of the extended area of use, listed in this TSI, the TSI Noise (Regulation (EU) No 1304/2014), the TSI PRM (Regulation (EU) No 1300/2014) and CCS TSI (Regulation (EU) 2016/919);
- b) the national rules referred to in points (a), (c) and (d) of Article 13(2) of Directive (EU) 2016/797 as notified in accordance with Article 14 of that Directive.

[...]"

d) Regulation (EU) No 321/2013 (WAG TSI)

- › 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

"(1) In the absence of full conformity with this TSI, point 2 applies to units that fulfil the following conditions when requesting an extension of their area of use in accordance with Article 21(13) of Directive (EU) 2016/797:

1. they have been authorised in accordance with Directive 2008/57/EC or put in operation before 19 July 2010;
2. they are registered with 'Valid' registration code '00', in the National Vehicle Register in accordance with Commission Decision 2007/756/EC (1) or in the European Vehicle Register in accordance with Commission Implementing Decision (EU) 2018/1614 (2) and maintained in a safe state of running in accordance with Commission Implementing Regulation (EU) 2019/779⁽³⁾.

The following provisions for extension of area of use apply also in combination with a new authorisation as defined in point (a) of Article 14(3) of Regulation (EU) 2018/545.

(2) Authorisation for an extended area of use of the units referred to in point 1 shall be based on the existing authorisation, if any, the technical compatibility between the unit and the network in accordance with point (d) of Article 21(3) of Directive (EU) 2016/797 and compliance with the Basic Design Characteristics of Table 11a of this TSI, taking into account any restrictions or limitations.

The applicant shall provide an 'EC declaration of verification' accompanied by technical files giving evidence of compliance with the requirements set out in this TSI, or with provisions having

equivalent effect, for each basic parameter referred to in column 1 of Table 11a of this TSI, through one or a combination of the following:

- a) compliance with requirements of this TSI as referred above;
- b) compliance with corresponding requirements set out in a previous TSI as referred above;
- c) compliance with alternative specifications deemed to have equivalent effect to the relevant requirements set out in this TSI as referred above;
- d) evidence that the requirements for technical compatibility with the network of the extended area of use are equivalent to the requirements for technical compatibility with the network for which the unit is already authorised or in operation. Such evidence shall be provided by the applicant and may be based on the information in the register of railway infrastructure (RINF).

(3) The equivalent effect of alternative specifications to the requirements of this TSI (point 2(c)) and the equivalence of requirements for technical compatibility with the network (point 2(d)) shall be justified and documented by the Applicant by applying the risk management process set out in Annex I of Regulation (EU) No 402/2013. The applicant shall provide a positive assessment by an assessment body (CSM RA).

(4) In addition to the requirements referred to in point 2 and where applicable, the applicant shall provide an 'EC declaration of verification' accompanied by technical files giving evidence of compliance with the following:

- a) specific cases relating to any part of the extended area of use, listed in this TSI, the TSI Noise (Regulation (EU) No 1304/2014) and CCS TSI (Regulation (EU) 2016/919);
- b) the national rules referred to in points (a), (c) and (d) of Article 13(2) of Directive (EU) 2016/797 as notified in accordance with Article 14 of that Directive.

[...]"

e) Regulation (EU) No 321/2013 (WAG TSI)

- › 7.4.2.4. Rules for the extension of the area of use for existing vehicle

"The following rules apply to existing vehicles in operation and registered in the National Vehicle Register in accordance with Commission Decision 2007/756/EC (3), or in the European Vehicle Register in accordance with Commission Implementing Decision (EU) 2018/1614 (4), when requesting an extension of the area of use:

(1) Vehicles shall comply with relevant special provisions applicable in the specific cases referred to in clause 7.6 of this Annex and with relevant national rules referred to in points (a), (c) and (d) of Article 13(2) of Directive (EU) 2016/797 notified in accordance with Article 14 of that Directive. In addition, in cases of partial fulfilment of the requirements in this TSI, provisions in point 6.1.1.3(3) shall apply.

(2) Vehicles already equipped with ETCS or GSM-R do not need to be upgraded, except where required for technical compatibility.

(3) Vehicles that are not already equipped with ETCS shall install ETCS and comply with sets of specifications #2 or #3 referred to in Tables A 2.2 and A 2.3 of Annex A. Except where required for technical compatibility, the requirement to be equipped with ETCS shall not apply to:

- a) vehicles not specially designed for operation on high-speed lines (1), if authorised before 1 January 2015;
- b) vehicles not specially designed for operation on high-speed lines, authorised as of 1 January 2015, in either of the following situations:
 - i) if they are intended exclusively for operations in one Member State outside the corridors specified in Annex I to Implementing Regulation (EU) 2017/6 and outside the lines ensuring the connections to the main European ports, marshalling yards,

freight terminals and freight transport areas as referred to in Annex II to Regulation (EU) No 1315/2013;

- ii) if they are intended for off-TEN cross-border service, namely service until the first station in the neighbouring country or to the first station where there are connections further in the neighbouring country utilising only lines outside of the TEN;*
- c) vehicles in Member States applying Article 7.4.3(2), where the area of the use following the Extension of Area of Use is exclusively within the same Member State, except when the area of use following the Extension of Area of Use includes more than 150 km of a section equipped with ETCS at the time of the Extension of Area of Use or to be equipped with ETCS within 5 years after the Extension of the Area of Use of those vehicles;*
- d) mobile railway infrastructure construction and maintenance equipment;*
- e) shunting locomotive*

(4) Vehicles that are not yet equipped with GSM-R voice radio shall install GSM-R voice cab radio and comply with the specifications referred to in Tables A 2.1, A 2.2 and A 2.3 of Annex A when the vehicle is intended for use on a network including at least one point equipped with GSM-R, except if superimposed to a legacy radio communication system compatible with the class B already installed in the vehicle.

(5) Vehicles that are not yet equipped with GSM-R for ETCS data shall install GSM-R ETCS Data only Radio and comply with the specifications referred to in Tables A 2.1, A 2.2 and A 2.3 of Annex A when the vehicle is required to install ETCS in accordance with point 3 and it is intended to operate in a network in the extended area of use that is equipped with only ETCS Level 2 or 3.

(6) Where an authorised vehicle benefited from non-application of TSIs or part of them pursuant to Article 9 of Directive 2008/57/EC, the applicant shall seek derogation(s) in the Member States of the extended area of use in accordance to Article 7 of Directive (EU) 2016/797. “

f) Regulation (EU) No 2016/919 (CCS TSI)

- › 7.4.2.4. Rules for the extension of the area of use for existing vehicle

The following rules apply to existing vehicles in operation and registered in the National Vehicle Register in accordance with Commission Decision 2007/756/EC (3), or in the European Vehicle Register in accordance with Commission Implementing Decision (EU) 2018/1614 (4), when requesting an extension of the area of use:

(1) Vehicles shall comply with relevant special provisions applicable in the specific cases referred to in clause 7.6 of this Annex and with relevant national rules referred to in points (a), (c) and (d) of Article 13(2) of Directive (EU) 2016/797 notified in accordance with Article 14 of that Directive. In addition, in cases of partial fulfilment of the requirements in this TSI, provisions in point 6.1.1.3(3) shall apply.

(2) Vehicles already equipped with ETCS or GSM-R do not need to be upgraded, except where required for technical compatibility.

(3) Vehicles that are not already equipped with ETCS shall install ETCS and comply with sets of specifications #2 or #3 referred to in Tables A 2.2 and A 2.3 of Annex A. Except where required for technical compatibility, the requirement to be equipped with ETCS shall not apply to:

- a) vehicles not specially designed for operation on high-speed lines (1), if authorised before 1 January 2015;*
- b) vehicles not specially designed for operation on high-speed lines, authorised as of 1 January 2015, in either of the following situations:*
 - i) if they are intended exclusively for operations in one Member State outside the corridors specified in Annex I to Implementing Regulation (EU) 2017/6 and outside the lines ensuring the connections to the main European ports,*

- marshalling yards, freight terminals and freight transport areas as referred to in Annex II to Regulation (EU) No 1315/2013;*
- ii) if they are intended for off-TEN cross-border service, namely service until the first station in the neighbouring country or to the first station where there are connections further in the neighbouring country utilising only lines outside of the TEN;*
 - c) vehicles in Member States applying Article 7.4.3(2), where the area of the use following the Extension of Area of Use is exclusively within the same Member State, except when the area of use following the Extension of Area of Use includes more than 150 km of a section equipped with ETCS at the time of the Extension of Area of Use or to be equipped with ETCS within 5 years after the Extension of the Area of Use of those vehicles;*
 - d) mobile railway infrastructure construction and maintenance equipment;*
 - e) shunting locomotives.*

(4) Vehicles that are not yet equipped with GSM-R voice radio shall install GSM-R voice cab radio and comply with the specifications referred to in Tables A 2.1, A 2.2 and A 2.3 of Annex A when the vehicle is intended for use on a network including at least one point equipped with GSM-R, except if superimposed to a legacy radio communication system compatible with the class B already installed in the vehicle.

(5) Vehicles that are not yet equipped with GSM-R for ETCS data shall install GSM-R ETCS Data only Radio and comply with the specifications referred to in Tables A 2.1, A 2.2 and A 2.3 of Annex A when the vehicle is required to install ETCS in accordance with point 3 and it is intended to operate in a network in the extended area of use that is equipped with only ETCS Level 2 or 3.

(6) Where an authorised vehicle benefited from non-application of TSIs or part of them pursuant to Article 9 of Directive 2008/57/EC, the applicant shall seek derogation(s) in the Member States of the extended area of use in accordance to Article 7 of Directive (EU) 2016/797.

WITHTHEDRAFT