

OPINION

ERA/OPI/2014-3

OF THE EUROPEAN RAILWAY AGENCY

FOR

EUROPEAN COMMISSION

REGARDING

TRANSITION PERIOD FOR INTEROPERABILITY CONSTITUENTS IN PRM TSI

Disclaimer:

The present document is a non-legally binding opinion of the European Railway Agency. It does not represent the view of other EU institutions and bodies, and 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 General Context

1. In its letter referenced as MOVE/B.2/NM/jt Ares (2014) and dated on 16 April 2014 addressed to the European Railway Agency (“ERA”), the European Commission requested ERA to prepare a technical opinion regarding a request put forward by the Austrian NSA to prolong the transition period defined under point 6.3 of the Annex to Commission Decision 2008/164/EC concerning the technical specification of interoperability relating to ‘persons with reduced mobility’ in the trans-European conventional and high-speed rail system¹ (“PRM TSI 2008”) until the entry into force of the revision of the PRM TSI 2008 (“Revised PRM TSI”). The Commission’s request can be found in Annex 1 to this opinion.
2. The justification for this request is that the Revised PRM TSI retains only some of the current interoperability constituents (“ICs”) as ICs. Many of the current ICs relating to infrastructure subsystem are not defined anymore as ICs in the Revised PRM TSI. Therefore, after the expiry of the transition period set out in the PRM TSI 2008 certain components which are considered as ICs under the PRM TSI 2008 shall be assessed and shall hold an EC declaration of conformity or suitability for use in order to place them on the market. This requirement will not be kept in the Revised PRM TSI therefore it makes such assessment and the declaration useless and irrelevant in the future.
3. The request concerns only the ICs relating to the infrastructure subsystem because all interoperability constituents relating to rolling stock defined in the PRM TSI 2008 are retained as such in the Revised PRM TSI.

2 Legal Background

1. In its Article 3(f) 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 Community² (“Interoperability Directive”) defines the ICs as follows: *“any elementary component, group of components, subassembly or complete assembly of equipment incorporated or intended to be incorporated into a subsystem, upon which the interoperability of the rail system depends directly or indirectly. The concept of a ‘constituent’ covers both tangible objects and intangible objects such as software;”*.
2. Point 6.3 of the PRM TSI 2008 defines a transition period during which interoperability constituents not holding an EC Declaration of Conformity or Suitability for Use may be incorporated into

¹ OJ L 64, 7.3.2008, p. 72

² OJ L 191, 18.7.2008, p.1



subsystems. During the transition period, subsystems containing such non-certified interoperability constituents can be assessed and certified according to rules defined in point 6.3.3 of the PRM TSI 2008. This transition period started from the entry into force of the PRM TSI 2008, i.e. 28 March 2008, and lasted for six years, i.e. until 28 March 2014.

3. The interoperability constituents concerned by this request and their characteristics are defined in points 5.3.1 and 5.4.1 of the PRM TSI 2008. They are the following:
 - Passenger visual information equipment,
 - Boarding aids,
 - Pushbuttons,
 - Baby changing unit,
 - Tactile signage,
 - Ticket vending machines.
4. The Revised PRM TSI that received a positive vote during the RISC 69 in January 2014 (Item 03 - ST27EN03) does not retain all the above mentioned components as interoperability constituents. The only components that are retained as interoperability constituents for the infrastructure subsystem in point 5.3.1 of the Revised PRM TSI are:
 - Displays,
 - Platform Ramps,
 - Platform Lifts.
5. The Revised PRM TSI is planned to be adopted by the Commission in the second half of 2014 in order to be applicable from 1 January 2015.

3 Analysis

1. The revision of the PRM TSI 2008 led to the suppression of the status of interoperability constituents for some components because they were considered as not meeting the requirements for ICs as defined in Article 3(f) of the Interoperability Directive. In particular, these components did not have the characteristics that upon them the interoperability of the rail system depends directly or indirectly. In fact, they are not specific to railway and should not have been identified as being interoperability constituents for Infrastructure. These components are:
 - Pushbuttons
 - Baby changing unit,
 - Tactile signage,
 - Ticket vending machines.



2. Consequently, it means that actors from the railway sector involved in the revision of the PRM TSI 2008 considered as neither pertinent nor necessary to assess these components at IC level. The Agency has shared this point of view.
3. For most of these components, no EC Declaration of Conformity has been issued so far, applicants preferring to use the possibility provided for the transition period in point 6.3.3 of the PRM TSI 2008.
4. However, in ongoing projects subsystems have to be assessed according to the PRM TSI 2008 even after entry into force of the Revised PRM TSI (in the conditions set forth in Article 11 thereof). For those subsystems, it will not be permitted to issue an EC certificate of verification unless the ICs they include hold an EC declaration of conformity or suitability for use.
5. For ICs that are not retained in the Revised PRM TSI, such assessment at IC level would raise additional administrative burden and costs without any long-term benefit. The assessment would have no technical justification as it is not considered as necessary anymore. Furthermore, after the entry into force of the Revised PRM TSI the corresponding EC declarations for ICs will become useless and irrelevant.

4 The opinion

1. Taking into account the legislative development concerning the PRM TSI 2008 and, in particular the revised list of infrastructure interoperability constituents defined therein, the end of the transition period for non-certified interoperability constituents defined in point 6.3 of the PRM TSI 2008 (28 March 2014) creates a source of unnecessary administrative burden and cost.
2. As it is not envisaged to initiate a revision of the existing text of the PRM TSI 2008, the Agency is of the opinion that as long as the PRM TSI 2008 is applied, it should be allowed to incorporate into subsystems under the conditions set out in 6.3.3 of the PRM TSI 2008 the following interoperability constituents not holding an EC declaration:
 - Pushbuttons
 - Baby changing unit,
 - Tactile signage,
 - Ticket vending machines.

Valenciennes,

19 MAI 2014

Marcel VERSLYPE
Executive Director



ANNEX 1

Request to the Agency for an Opinion/Advice

Requesting organization (name, address)	DG MOVE.B2	
Contact information	Nicole Magel	
Legal base	Opinion	<input type="checkbox"/> Agency Regulation Article 9a <input type="checkbox"/> Agency Regulation Article 10 (2a) <input checked="" type="checkbox"/> Agency Regulation Article 10 (2b) together with Directive 2008/57/EC Article 7 (1) <input type="checkbox"/> Agency Regulation Article 13 <input type="checkbox"/> Agency Regulation Article 15
	Advice	<input type="checkbox"/> Agency Regulation Article 21b (2b)
Objective	To assess the request put forward by the Austrian NSA to prolong the transition period defined under point 6.3 of the 2008 PRM TSI.	
Scope	Commission Regulation 2008/164/EC (PRM TSI)	
Task Description	<p>To assess the following problem and the request to prolong the transition period for certain interoperability constituents until the entry into force of the revised PRM TSI:</p> <p>Under the 2008 PRM TSI certain items are defined as interoperability constituents (e.g. tactile signage, ticket vending machines). According to point 6.3 of the TSI they can be assessed within the subsystem during a transition period which ends on 1st July 2014. However, these items are no longer considered interoperability constituents under the revised PRM TSI which is scheduled to enter into force at the beginning of 2015. Thus, there will be a gap of six months during which these interoperability constituents would have to be assessed to get an EC Declaration.</p>	
Key input documents	E-mail by Austrian NSA to ERA and the Commission dated 19.3.2014.	