

OPINION

OPI 2021-3

OF THE EUROPEAN UNION AGENCY FOR RAILWAYS

for

Austria

regarding

Negative assessment of Draft National Rules of Austria in addition to the latest TSIs in force for the Rolling Stock and on-board CCS subsystems notified in the Reference Document Database by Member States according to Article 26 of the Agency Regulation

Disclaimer:

The present document is a non-legally binding opinion of the European Union Agency for Railways. 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

- 1.1 The scope extension of TSIs (with effect on 01 January 2015), the functional and technical harmonisation of requirements within TSIs made a series of national rules redundant and unnecessary.
- 1.2 The articles 13 and 14 of Directive(EU) 2016/797 indicate clearly cases where national rules may continue to apply:
- New national rules may only be adopted in of the following cases (article 14(4)), :
 - o when a TSI does not fully meet the essential requirements;
 - o as an urgent preventive measure, in particular following an accident.
 - Existing national rules (article 13(2)) are limited to :
 - o where the TSIs do not cover, or do not fully cover, certain aspects corresponding to the essential requirements, including **open points** as referred to in Article 4(6)Case where non-application of one or more TSIs or parts of them has been notified under article 7 of Directive(EU) 2016/797,
 - o Specific cases listed but not described in TSIs,
 - o Ensure technical compatibility with existing network not yet in compliance with TSI,
 - o Vehicles excluded from the scope of TSIs,
 - o Urgent temporary preventive measure, in particular following an accident.
- 1.3 According to article 14 of Directive (EU) 2016/797, Member States had to notify existing national rules before 16 December 2016 and have to notify draft national rules. When notifying an existing national rule or a draft national rule, Members States have to provide justification for the existence of national rules (e.g. identification of the related open-point).
- 1.4 Member States shall notify their national rules for vehicle authorisation. According to the communication of the Commission in RISC, until the Single Rules Database is available, the notification is performed in the Reference Document Database (RDD).
- 1.5 Since 2016, in accordance to the ERA programme plan on cleaning-up of national rules ERA-PRG-006-PPL, Member States and the Agency started the activity on identification and evaluation of national rules in addition to the following TSIs:
- TSI WAG: Commission Regulation (EU) No 321/2013, amended by Regulation (EU) No 1236/2013,
 - TSI LOC&PAS: Commission Regulation (EU) No 1302/2014,
 - TSI PRM: Commission Regulation (EU) No 1300/2014,
 - TSI Noise: Commission Regulation (EU) No 1304/2014,
 - TSI CCS: Commission Regulation (EU) No 2016/919 (including ERA/ERTMS/033281 rev 3.0 dated 04/12/2015).
- 1.6 From 16 June 2019 and pending the Single Rules Database, the Reference Document Database will be the reference for applicants, NSAs and the Agency in terms of applicable national rules for vehicle authorisation.
- 1.7 The scope of the technical opinion covers the examination of national rules (existing or draft) leading to a negative assessment by the Agency.
- 1.8 The complete assessment covering the examination of all national rules (existing or draft) in addition to TSIs mentioned in section 1.5 is available in the Evaluation Report of remaining national rules ERA-PRG-006-REP-RST.

2. Legal Background

2.1 According to the provisions of article 13.2 of Directive (EU) 2016/797, national rules and where relevant acceptable national means of compliance shall apply in the cases defined below:

- a) where the TSIs do not cover, or do not fully cover, certain aspects corresponding to the essential requirements, including open points ;
- b) where non-application of one or more TSIs or parts of them;
- c) where a specific case requires the application of technical rules not included in the relevant TSI;
- d) national rules used to specify existing systems, limited to the aim of assessing technical compatibility of the vehicle with the network;
- e) networks and vehicles not covered by TSIs;
- f) as an urgent temporary preventive measure, in particular following an accident.

2.2 According to the provisions of article 14 (9) of Directive (EU) 2016/797, draft national rules and national rules referred to in paragraph 1 shall be examined by the Agency in accordance with the procedures laid down in Articles 25 and 26 of Regulation (EU) 2016/796.

2.3 According to the provisions of Article 25 (3) of the Agency Regulation 2016/796, where the examination referred to in paragraph 1 leads to a negative assessment, the Agency shall inform the Member State concerned and ask it to state its position regarding that assessment. If, following that exchange of views with the Member State concerned, the Agency maintains its negative assessment, the Agency shall within a maximum period of 1 month:

(a) issue an opinion addressed to the Member State concerned, stating the reasons why the national rule or rules in question should not enter into force and/or be applied; and

(b) inform the Commission of its negative assessment, stating the reasons why the national rule or rules in question should not enter into force and/or be applied.

This shall not prejudice the right of a Member State to adopt a new national rule in accordance with point (c) of Article 8(3) of Directive (EU) 2016/798 or with point (b) of Article 14(4) of Directive (EU) 2016/797

2.4 According to the provisions of Article 26 (3) of the Agency Regulation 2016/796, where the examination referred to in paragraph 1 leads to a negative assessment, the Agency shall inform the Member State concerned and ask it to state its position regarding that assessment. If, following that exchange of views with the Member State concerned, the Agency maintains its negative assessment, the Agency shall within a maximum period of 1 month:

(a) issue an opinion addressed to the Member State concerned, stating that the national rule or rules in question has or have been the subject of a negative assessment and the reasons why the rule or rules in question should be modified or repealed; and

(b) inform the Commission of its negative assessment, stating the reasons why the national rule or rules in question should be modified or repealed.

3. Analysis

3.1. Tasks under the responsibility of the Member States:

In accordance to rules cleaning-up program plan ERA-PRG-006-PPL from March 2016, Member states were asked to:

- Identify and remove national rules covered by TSIs,
- Relate national rules to the TSIs and to the updated list of parameters defined in Commission Implementing Decision (EU) 2015/2299,
- Clearly refer national rules not related to open point(s) or specific case(s) to TSI requirements in order to identify if they complement/contradict/replace TSIs for compatibility with existing networks,
- Ensure that the requirement is a mandatory rule. Acceptable national means of compliance in accordance to the definition in article 2 (34) of Directive 2016/797 is not considered as a national rule,
- Identify and analyse requirements that don't relate to any of the above, verify, in this case for example if the TSI is deficient/non-exhaustive.

Based on the outcome of this activity, Member States should have:

- Published their national rules in the Reference Document Database and
- Aligned their national legislation for vehicle authorisation with the Reference Document Database.

3.2. Tasks carried out by the Agency

During the project of cleaning up of national rules for vehicle authorisation covered by the Rules cleaning up program plan ERA-PRG-006-PPL, the Agency has:

- Provided technical support to Member States in the cleaning up of the remaining rules by ensuring:
 - o That rules relate to: Open points, Specific cases, Legacy system or rule duly justified for compatibility with existing fixed installation (i.e. a specific case not declared up to now).
 - o Consistency with the EU framework, including register of infrastructure and responsibilities of actors as defined in the Safety Directive and TSI OPE.
 - o That the rule is transparent and not discriminatory.
 - o The update of the Reference Document Database.
- Assessed the relevance of the remaining national rules together with the Member states, using the Reference Document Database as a reference.
- Provided regular reporting to European commission on the progress made.
- Updated the Reference Document Database with the status of the evaluation.
- In accordance with article 25(3) and 26(3) of Agency regulation (EU) 2016/796, the Agency informed officially the Member States and the European Commission through an assessment report published in ERA website on June 2019, on the national rules in addition to latest TSIs (ERA-PRG-006-REP-RST). This report was published on the ERA website and uploaded on the CIRCABC. At that time no national rules were submitted by Austria. Following that, two sets of national rules were submitted:
 1. A first draft set national rules submitted in November 2019 and published in RDD on September 2020 regarding 34 draft national rules related to Rolling Stock and Control Command and Signalling.
 2. A second set of national rules related to the protection of workers in relation to health and safety submitted in form of Excel file in April 2020 and not yet published in RDD containing 205 national rules.
- On the first set of draft national rules published in RDD : there was several exchanges between the Agency and the NSA of Austria. This technical opinion covers the first set of draft national rules as published in RDD.

- On the second set of national rules, the Agency and Austria are still in discussion and another Technical opinion may be drafted in case of negative assessments for the rules subject to assessment by the Agency (see below).

The table 1 below provides an overview of national rules notified by Member States and subject or not to an assessment by the Agency:

Table 1 : Overview of national rules notified by Member States and subject or not to an assessment by the Agency

National Rules relates to	Published in RDD	Evaluated	Remarks
Vehicles in the scope of Loc&Pas and WAG TSIs	Yes	Yes	Freight wagons, Locomotives, Trainsets / Electric or Diesel Multiple Unit, Passenger coaches, Track machines/OTMs.
Article 13.2(a): Open points listed in TSIs	Yes	Yes	TSIs clearly identify where a national rule may be kept and notified; traceability between TSIs and possible remaining national rules is clearly established, and the corresponding rules are recorded in RDD. The Agency checked if the national rule covers the scope of the open point.
Article 13.2(a): Other Directives	Yes	No	Corresponding rules are available in RDD. Anyway, it will have to be decided at later stage with the Commission how to deal with these rules, considering the mentioned Directives. As a general principle, the TSIs in force don't cover subjects in the scope of these other EU Directives. Corresponding parameters are defined in section 3.2.3 of the report ERA-PRG-006-REP-RST It is to be noted that Austria notified a set of national rules that should cover health and safety topics that is being reviewed by the Agency.
Article 13.2 (b): Non application of TSI	No	No	
Article 13.2 (c): Specific cases mentioned but not described in TSIs	Yes	Yes	TSIs clearly identify where a national rule may be kept and notified. Traceability between TSIs and possible remaining national rules is clearly established, and the corresponding rules are recorded in RDD. The Agency checked if the national rule covers the scope of the specific case.
Article 13.2(d): Technical compatibility between vehicle and existing network(s)	Yes	Yes	This includes vehicles with ETCS pre-baseline 2 versions (e.g. 2.2.2), additional functionality implemented on-board (e.g. NTRs from other MS) and TSI options implemented trackside (e.g. infill).
Article 13.2 (e): Vehicles not covered by TSIs	No	No	Concern vehicles such as Tram-Train, metric gauge vehicle.
Article 13.2 (f): Urgent temporary preventive measure following an accident	No	No	
TSI potentially deficient or not exhaustive	Yes	Yes	National rules when accepted by the Agency are maintained pending the resolution of the potential deficiency.
Previous versions of TSIs not listed in section 3.1.2 of the report ERA-PRG-006-REP-RST	Yes	No	
Vehicle not TSI compliant authorised before TSIs.	Yes	No	Rules are in RDD for reference/history and are not subject to Agency evaluation.

3.2.1. Summary of the results of the examination of national rules

3.2.1.1. First set of draft national rules notified in RDD

The table 2 below provides an overview of the number of draft national rules notified by the Member State in addition to the TSIs referred in section 1 and the results of the examination leading to a positive or negative assessment. The annex 1 provides details of the assessment leading to negative assessment.

Table 2 : number of national rules notified by Member states in RDD and results of the examination

Member State	Number of National rules	Results of the examination		Remarks
		Positive assessment	Negative assessment	
Austria (draft)	34	17	17	4 National rule should be modified 13 National rule should be repealed

3.2.1.2. Second set of national rules related to health and safety not yet in RDD

The table 3 below provides an overview of the number of national rules related to protection of workers in relation to health and safety. They have been submitted in Excel format by the Member State, **they are still under discussion with the Member State and are not yet introduced in RDD. They may be subject to another Technical opinion following exchanges with the Member State.**

As referred in Table 1 of this opinion, national rules related to other EU directives are not in the scope of technical assessment performed by the Agency. The corresponding RDD parameters below are covering technical requirements specific for railways but also governed by other EU directives (list of EU legislation mentioned below is not exhaustive):

- 5.5 Toilets (Directive drinking water 98/83/EC)
- 6.2 Impact of the vehicle on the environment (Regulation REACH 1907/2006)
- 6.2.1.1 Toilet emissions (Directives 2006/7/EC, 2006/11/EC)
- 6.2.1.2 Exhaust gas emissions (Directives 97/68/EC, 2001/63/EC, 2002/88/EC, 2004/26/EC, 2006/105/EC, 2010/26/EC Exhaust emission)
- 6.2.1.3 Chemical and particulate emission
- 8.4.1 EMC within the vehicle (Directive 2014/30/EU, former Directive 2004/108/EC repealed on 20/04/2016)
- 8.4.2.2.2. Electro-Magnetic fields/Induced voltages outside the track (Directive 2004/108/EC)
- 8.4.2.4 Psophometric current (Directive 2004/108/EC)
- 8.4.2.5 Transverse voltage limits for compatibility voice/data circuits (Directive 2014/30/EU)
- 8.4.3.1 Maximum Electro-Magnetic fields (Directive 2014/30/EU, Directive 2013/35/EU for workers)
- 8.4.3.2 Induced interference current/voltage(Directive 2014/30/EC)
- 8.4.3.3 Psophometric current(Directive 2014/30/EC)
- 8.7.2 Pressure vessel systems/pressure equipment (directives 2009/105/EC simple pressure Vessel,-97/23/EC Pressure equipment)
- 8.7.3 Steam boiler installations (directives 2009/105/EC simple pressure Vessel, 97/23/EC Pressure equipment)
- 8.7.4 Technical systems in potentially explosive atmospheres (Directive 94/9EC)
- 8.7.5 Hydraulic/pneumatic supply and control systems
- 9.2.2 Other health and safety requirements
- 11.2.2 Water supply system (drinking water 98/83/EC)

- 14.1 Design, operation and maintenance constraints for the transport of dangerous goods (2008/68/EC, 2010/61/EC transport of dangerous good)

It is to be noted that:

- According to the provisions of article 13.2 of Directive (EU) 2016/797, only national rules addressing **vehicle authorisation are subject to this assessment**. Other rules that are not to be checked for delivering vehicle authorisation such as obligation of employers, rules related to responsibility of Railway undertaking or Infrastructure managers should be covered by their Safety Management System, or the obligations of Entity in Charge of Maintenance, or any other legal instrument.
- The tasks of the Member state as mentioned in section 3.1 of this opinion was not completely performed. The rules notified were “**not filtered**” to address only the rules in the scope of this assessment (vehicle authorisation rules related to compliance of a vehicle/vehicle type with essential requirements).
- As mentioned in section 3.1 of this opinion, Member states should have:
 - Checked if the national rule notified is already covered by TSIs or not :
 - Examples of rules notified which are already covered by TSIs requirements:
 - **LOC&PAS TSI 1302/2014:**
 - 3.1. Elements of the rolling stock subsystem corresponding to the essential requirements
 - 3.2. Essential requirements not covered by this TSI
 - 4.2.5.8 Internal air quality
 - 4.2.8.4 Protection against electrical hazards
 - 4.2.9.1.2.2 Driver's cab emergency exit
 - 4.2.9.1.7 Climate control and air quality
 - 4.2.10 Fire safety and evacuation
 - 4.2.10. Fire safety and evacuation
 - 4.2.12.6 Rescue related descriptions
 - 4.2.10.4. Requirements related to emergencies
 - 4.2.10.4.1. Emergency lighting
 - 4.2.10.5. Requirements related to evacuation
 - 4.7. Health and safety conditions
 - Etc.
 - **WAG TSI 321/2013 :**
 - 3. Essential requirements
 - 4.2.6.1. Fire safety
 - 4.2.6.2. Protection against electrical hazards
 - 4.7. Health and safety conditions
 - Etc.
 - **NOI TSI 1304/2014 :**
 - article 6
 - 4.7 Health and safety conditions
 - **CCS TSI 2016/919:**
 - 4.7 Health and safety conditions
 - Justify each national rule and indicate how the rule apply to vehicle authorisation. Other type of rules such as follow are not in the scope of vehicle authorisation :
 - Rules related to the responsibility of **employers** in general and in the scope of operation covered by regulation 2018/762 establishing common safety methods on safety management system (see also 3.1.1.2. *“When assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe working environment which conforms to applicable legislation, in particular Directive 89/391/EEC”.*)

- Responsibility of Railway Undertaking or Entity in Charge of Maintenance regarding maintenance of vehicles
- Anyhow, even if the National rules provided were not filtered according to the considerations above, the Agency made an initial assessment in order to indicate :
 - **National Rules that should be modified** : They could be “valid” for vehicle authorisation when they relates to article 13(2)(a) of directive(EU) 2016/797: *“National rules for implementing the essential requirements compliance where the TSIs do not cover, or do not fully cover, certain aspects corresponding to the essential requirements, including open points as referred to in Article 4(6)”*
 - **National Rules that should be repealed**: They should be repealed for several possible reasons such as: out of scope of vehicle authorisation or already covered by requirements in TSIs

Table 3 : number of national rules related to health and safety not yet in RDD

Legal Text	Number of NRs	Remarks
General Regulation on Protection of Workforce: AAV: Allgemeine Arbeitnehmerschutzverordnung. <u>Texts notified</u> : § 68 Abs. 2 , 3	2	Rule in § 68 indicates that it applies to every employee who is exposed to the effects of harmful gases, vapors or suspended matter during their occupational activity. It is not rules for vehicle authorisation. Regarding fire, evacuation and quality of the air : see TSI LOC&PAS 1302/2014 and SRT TS 1303/2014I
Regulation on work equipment: AM-VO : Gesamte Rechtsvorschrift für Arbeitsmittelverordnung <u>Texts notified</u> : § 41 Abs. 1 bis 7; § 42 Abs. 1, 2, 3, 4(Z 1, Z2, Z3); § 43 Abs. 5, 7(Z 1 bis Z5), 8 ; § 44 Abs. 1, 2, 3(Z 1,Z2),4,6; § 45 Abs. 1 bis 6 ; § 46 Abs. 1 bis 4; § 47 Abs. 1(Z 1,Z 2),3,3(Z 1 bis Z 3), § 47 Abs. 4(Z 1 bis Z3); § 49 Abs. 1, 3, 4,5 ,6 ; § 50 Abs. 1,2,3,4(Z 1, Z 2), 5; § 53 Abs. 1,2(Z 1, Z2, Z4 bis Z8); 3, 4 (Z 1,Z2); 5, 6, 7(Z1bis Z4), 8, 9 ; § 53a Abs. 1 bis 3; "§ 53b Abs. 1 (Z 2, Z 3);3; § 54 Abs. 2 , 3	113	Some rules are already covered by TSIs Some rules are not related to vehicle authorisation Some rules addressing other EU legislations need to be modified to clearly indicate how they apply to vehicle authorisation and indicating to which RDD parameters they apply.
Federal law on Health and Safety at Work : AschG : Gesamte Rechtsvorschrift für ArbeitnehmerInnenschutzgesetz <u>Texts notified</u> : AschG : § 5, § 4, § 4 Abs. 2,3, 6 § 76 Abs. 3 Z 8 und 9, § 81 Abs. 3 Z 9 und 10,§ 31 Abs. 1 und Abs. 2 , § 31 Abs. 3, § 31 Abs. 4, § 33 Abs. 3 Z 1,Z 2,§ 61 Abs. 1 bis 6, § 66 Abs. 1,2	27	Rules that should be repealed are either: <ul style="list-style-type: none"> - Covered by requirements in the TSIs and applicable legislations for vehicle authorisation: <ul style="list-style-type: none"> o Clause 4.7 Health and safety conditions of TSIs applicable to vehicles already provide some requirements applicable to health and safety (See LOC&PAS TSI, WAG TSI, NOISE TSI and CCS TSI). o Regulation 2018/545 mandates application of requirements captures (see art 13) and regulation on CSM is mandatory for safety essential requirement. - Or not related to vehicle authorisation but relates to the responsibility of employers in general and in the scope of operation covered by regulation 2018/762 establishing common safety methods on safety management system (see also 3.1.1.2. When assessing risk, an organisation shall take into account the need to determine, provide and sustain a safe

Table 3 : number of national rules related to health and safety not yet in RDD

Legal Text	Number of NRs	Remarks
		working environment which conforms to applicable legislation, in particular Directive 89/391/EEC.).
<p>Regulation for railway workers protection : EisbAV : Gesamte Rechtsvorschrift für Eisenbahn-ArbeitnehmerInnenschutzverordnung</p> <p><u>Texts notified</u> : § 42 Abs. 1 bis 2 , § 46 Abs. 1 bis 14, § 47 Abs. 1 bis 4, § 23 Abs. 2 bis 3</p>	26	<p>Rules that should be repealed are either not in the scope of vehicle authorisation or are already covered by TSIs:</p> <ul style="list-style-type: none"> - LOC&PAS 1302/2014 : <ul style="list-style-type: none"> o 4.2.4. Braking o 4.2.7.1. External lights o 4.2.9. Driver's Cab and driver-machine interface <ul style="list-style-type: none"> o 4.2.9.1 Driver's cab <ul style="list-style-type: none"> o 4.2.9.1.2 Access and egress <ul style="list-style-type: none"> o 4.2.9.1.2.2 Driver's cab emergency exit o 4.2.9.1.3 External visibility o 4.2.9.1.4 Interior layout o 4.2.9.1.5 Driver's seat, 5.3.13. Driver's seat o 4.2.9.1.6 Driver's desk — Ergonomics o 4.2.9.2. Windscreen, Appendix F: Front visibility <ul style="list-style-type: none"> o 4.2.9.3.4. Controls and indicators o 4.2.9.5 Storage facility for staff personal effects. - PRM TSI 1300/2014 : <ul style="list-style-type: none"> o 4.2.2.8 Height changes - TSI SRT 1301/2014 <ul style="list-style-type: none"> o 4.7.Health and safety conditions <ul style="list-style-type: none"> o 4.7.1. Self-rescue device
<p>Regulation on Protection from Electricity:ESV:Gesamte Rechtsvorschrift für Elektroschutzverordnung 2012</p> <p><u>Texts notified</u> : § 2 Abs. 1 bis 3</p>	3	<p>The requirements notified <u>should be limited vehicle authorisation</u>, aspects related to obligation of employers are out of the scope of vehicle authorisation.</p> <p>TSI LOC&PAS covers the requirements applicable to rolling stock subsystem (4.2.8.4, 4.2.12). At operational level, it the responsibility of the user (within its SMS)of the vehicle to ensure that the vehicle is maintained and used correctly.</p>
<p>Regulation on Labelling : KennV, Verordnung über die Sicherheits- und Gesundheitsschutzkennzeichnung,Kennzeichnungsverordnung</p> <p><u>Texts notified</u>: § 1 Abs. 5 Z 1, Z 2, Z 4;§ 1 Abs. 6; § 5 Abs. 2 Z 1,Z 2</p>	6	<p>The national rules are already covered by TSI LOC&PAS 1302/2014 and TSI NOISE 1304/2014</p>

Table 3 : number of national rules related to health and safety not yet in RDD

Legal Text	Number of NRs	Remarks
Regulation on electromagnetic fields: VEMF: Gesamte Rechtsvorschrift für Verordnung elektromagnetische Felder. <u>Texts notified:</u> § 3 Z 1, § 3 Abs. 2, § 4 Abs. 1 bis 2, § 9 Abs. 1 bis 4, § 10 Z 1 bis Z5	13	The requirements notified <u>should be limited vehicle authorisation</u> , any aspect related to obligation of employers is out of the scope of vehicle authorisation. The national rule relates to directive 2013/35/EU on minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) and should be notified against RDD parameters 8.4.1EMC within the vehicle and 8.4.3.1 Maximum Electro-Magnetic fields
Regulation on Protection of Workforce from Noise and Vibrations : VOLV : Verordnung über den Schutz der ArbeitnehmerInnen vor der Gefährdung durch Lärm und Vibrationen. <u>Texts notified:</u> § 3 Abs. 1,2, 3 Z 1 bis Z 3, § 4, § 9 Abs. 1 bis 3, § 11 Z 2, § 13 Abs. 1 Z 1	15	The requirements notified should <u>be limited vehicle authorisation</u> , any aspect related to obligation of employers is out of the scope of vehicle authorisation. For vibration requirements: we understand that the national rules relates to Directive 2002/44/EC (vibration). Please provide for which RDD parameters the national rules applies 9.2.2 Other health and safety requirements. Regarding NOISE requirements: we understand that the national rules relates to Directive 2003/10/EC (noise) that is already covered by article 6 of TSI NOISE 1304/2014

The opinion

In accordance with article 26 of Regulation 2016/796, the opinion covers the examination of draft national rules notified in RDD by the Agency leading to a negative assessment.

The annex 1 provides to the Member State:

- The list of actions to be taken into account,
- An assessment table with :
 - o The draft national rules concerned,
 - o The Agency assessment of each rule and the reasons why this is not accepted,
 - o The status of the assessment indicating whether the rule(s) should be modified or repealed.

Valenciennes, 25/05/2021


 Josef DOPPELBAUER
 Executive Director

4. ANNEX 1 – Examination of draft national rules notified in RDD leading to negative assessment

The table below presents the rules where the evaluation performed by the Agency leads to a negative assessment.

Subsystem	Distribution of remaining rules	National rules and acceptable national means of compliance	Examination of national rules and acceptable national means of compliance leading to a negative assessment	Agency assessment status
RST	Other rules related to compatibility with network / legacy system	<p><u>2.1.2.2-Axle load and wheel load:</u></p> <p>Zuordnung der Streckenklasse gem. EN15528 von v_{max} grösser 120km/h bis V_{max} 160 km/h / bis 200 km/h / über 200km/h (dynamische Prüfung)</p> <p>Jedes Fahrzeug ist aufgrund seiner Radsatzmasse und seiner Radsatzabstände in eine Streckenklasse gemäß EN 15528 (Kap. 6) einzustufen.</p> <p>Für Höchstgeschwindigkeiten größer 120 km/h sind für die Netzvertäglichkeit zusätzlich die ergänzenden Bedingungen gemäß ÖBB-INFRA RW 50.02.01 Kap. 0.1.3 bzw. ÖBB-INFRA RW 50.04.01 Kap. 0.1.3 einzuhalten.</p> <p>Nähere Bestimmungen und die Nachweisführung sind dem Regelwerk ÖBB-INFRA RW 50.02.01 Kap. 0.1.3 bzw. ÖBB-INFRA RW 50.04.01 Kap. 0.1.3 zu entnehmen.</p>	<p>The national rule refers to clause 7.5.1.1 of LOC&PAS TSI 1302/2014 and relates to categorisation of vehicle against EN 15528.</p> <p>NSA AT justification :</p> <p>Directive (EU) 2016/797, article 13 (2) - a): The European specification is incomplete. NTR is necessary because there is no yet an European harmonised approach how a ""dynamic compatibility testing"" in the route compatibility check (RCC) can be carried out, or the requirements are not sufficient. EN 15528 does not contain any requirements for v_{max} > 120 km/h (see comment below).</p> <p>Directive (EU) 2016/797, article 13 (2) - d), e): The configuration of TSI rolling stock with entire network shall be described.</p> <p>Directive (EU) 2016/796, article 26 (2): NTR is non-discriminatory and does not restrict access.</p> <p>EN 15528 is only valid up to 120 km/h. For v_{max} > 120 km/h there are no requirements in the international standard / TSI; line and bridge loads would be uncontrolled and possibly too high. This is a harmonized requirement for the entire field of application and is independent of the route! The regulation states that if certain criteria are met, no route inspection is required at all and thus represents a facilitation. It is also not possible to disregard this parameter in the vehicle approval because other essential requirements of the TSI (e.g. in connection with braking performance) are also based on the specified axle loads and geometric dimensions. Therefore this criterion is not suitable for RCC. Testing at RCC would mean enormous effort.</p>	Not accepted – National rules should be repealed

Subsystem	Distribution of remaining rules	National rules and acceptable national means of compliance	Examination of national rules and acceptable national means of compliance leading to a negative assessment	Agency assessment status
			<p>Agency examination:</p> <p>The requirements are relevant for route compatibility check performed by Railway undertaking after vehicle authorisation (article 23 of directive(EU) 2016/797) and is covered by TSI OPE revision (4.2.2.5 and appendix D : Traffic loads and load carrying capacity of infrastructure : <i>"shall be performed according to the procedure(s)"</i><i>"The static compatibility checks for vehicles and, when necessary in accordance with the information provided by the infrastructure manager, the dynamic compatibility checks for trains shall be performed according to the procedure(s) (...)"</i></p>	
RST/CCS	Other rules related to compatibility with network / legacy system	<p><u>2.1.2.2-Axle load and wheel load:</u></p> <p>Zuordnung der Streckenklasse gem. EN 15528 bis Vmax 120 km/h bzw. zulässige Lastgrenzen gem. EN 15528 (statische Prüfung)</p> <p>Jedes Fahrzeug ist aufgrund seiner Radsatzmasse und seiner Radsatzabstände in eine Streckenklasse gemäß EN 15528 (Kap. 6) einzustufen.</p> <p>Nähere Bestimmungen und die Nachweisführung sind dem Regelwerk ÖBB-INFRA RW 50.02.01 Kap. 0.1.3 bzw. ÖBB-INFRA RW 50.03.01 Kap. 5.3 bzw. ÖBB-INFRA RW 50.04.01 Kap. 0.1.3 zu entnehmen.</p>	<p>The national rule refers to clause 7.5.1.1 of LOC&PAS TSI 1302/2014.</p> <p>NSA AT justification :</p> <p>Directive (EU) 2016/797, article 13 (2) e): The configuration of vehicles with the existing network must be mapped.</p> <p>Agency examination:</p> <p>The national rules relates to categorisation of vehicles against EN 15528. The requirements are relevant for route compatibility check performed by Railway undertaking after vehicle authorisation (article 23 of directive(EU) 2016/797) and is covered by TSI OPE revision (4.2.2.5 and appendix D : Traffic loads and load carrying capacity of infrastructure :<i>"shall be performed according to the procedure(s)"</i> <i>"The static compatibility checks for vehicles and, when necessary in accordance with the information provided by the infrastructure manager, the dynamic compatibility checks for trains shall be performed according to the procedure(s) (...)"</i></p>	Not accepted – National rules should be repealed

Subsystem	Distribution of remaining rules	National rules and acceptable national means of compliance	Examination of national rules and acceptable national means of compliance leading to a negative assessment	Agency assessment status
RST	Other rules related to compatibility with network / legacy system	<p><u>2.2.3-Conventional screw coupling and other non-automatic coupling systems:</u> Zug- und Stoßeinrichtungen von Spezialfahrzeugen.</p> <p>Es muss ein Nachweis erbracht werden, dass Bögen mit einem Bogenradius von 112 m gefahrlos befahren werden können. (Berechnung der Verspannkraft und der Puffertellerbreite).</p> <p>Nähere Bestimmungen und die Nachweisführung sind dem ÖBB-INFRA RW 50.04.01 Kap. 3.2 zu entnehmen.</p>	<p>The national rules refers to clause 4.2.3.6 of LOC&PAS TSI 1302/2014.</p> <p>NSA AT justification :</p> <p>Directive (EU) 2016/797, article 13 (2) - a): The European specification is incomplete. curve radii < 150 m are not covered by the TSIs (see comment below).</p> <p>Directive (EU) 2016/797, article 13 (2) - d), e): This requirement applies to the entire network</p> <p>Directive (EU) 2016/796, article 26 (2): NTR is non-discriminatory and does not restrict access</p> <p>In the existing network there are a lot of routes with curve radii < 150m. The essential requirement in the TSI LOC&PAS is not sufficiently formulated. According to the TSI, vehicles must be able to negotiate radii of at least 150 m. Most of the time they can drive on smaller radii anyway, without knowing which ones. This national requirement supplements the basic requirement of the TSI and applies in particular to special vehicles. Special purpose vehicles are, due to their type of construction and their special purpose, usually built to be used on all lines. If this value cannot be complied with, then the appropriate restrictions or replacement measures must already be determined within the framework of the national expert opinions on the NTR.</p> <p>Agency examination:</p> <p>The national rules relate to special vehicles such as On Track Machine when applying TSI.</p> <p>TSI LOC&PAS requires that the minimum curve radius to be negotiated shall be 150 m for all units which include OTMs when</p>	Not accepted – National rules should be repealed

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			<p>they apply TSI. The distance of 150m relates to mainline, for siding the distance might be less than 150m.</p> <p>Please note that after authorisation, the Railway Undertaking performs route compatibility check in accordance with TSI OPE (clause 4.2.2.5 and appendix D1, see interface minimum curve). The consequence might be restriction or limitation of speed to pass the radius.</p>	
RST	Other rules related to compatibility with network / legacy system	<p><u>3.2.1-Running safety and dynamics:</u></p> <p>Fahrsicherheit: Grundsätzliche Anforderungen gem. EN 14363.</p> <p>Nachweis des Fahrzeuges nach EN 14363 mit den in ÖBB-INFRA RW 50.02.01 Kap. 1.1 bzw. RW 50.03.01 Kap. 6.1.1 mitgeltenden Parametern (insbesondere Prüfung für unausgeglichene Seitenbeschleunigung mindestens $a_q = 0,85 \text{ m/s}^2$).</p> <p>Der Nachweis dieser Anforderung ist für RIV, TEN GE und TEN CW gekennzeichnete Fahrzeuge nicht erforderlich.</p> <p>Nähere Bestimmungen und die Nachweisführung sind dem ÖBB-INFRA RW 50.02.01 Kap. 1.1 bzw. ÖBB-INFRA RW 50.03.01 Kap. 6.1.1 zu entnehmen.</p>	<p>The national rules refers to clauses :</p> <ul style="list-style-type: none"> - 4.2.3.4.2 of LOC&PAS TSI 1302/2014 and, - 4.2.3.5 and appendix C of TSI WAG 321/2013 <p>NSA AT justification:</p> <p>Directive (EU) 2016/797, article 13 (2) - a): The European specification is incomplete. This requirement supplements the essential requirements of the TSI (see comment below).</p> <p>Directive (EU) 2016/797, article 13 (2) - d), e): This requirement is necessary for compatibility with the entire network (see comment below).</p> <p>Directive (EU) 2016/796, article 26 (2): NTR is non-discriminatory and does not restrict access.</p> <p>The maximum speed (VzG) on which the timetables and thus the train paths are based requires a required unbalanced lateral acceleration of $0,85 \text{ m/s}^2$ ($u_f = 130 \text{ mm}$). Not all combinations of speed and cant deficiency are possible on the network. This is a supplement to the essential requirements. The TSI refers in this point to EN 14363. In EN 14363 the specifications in this respect (Annex H1) are not binding and unambiguous. If rolling stock does not comply with this requirement, operational restrictions and increased costs for RUs and IMs must be expected when planning</p>	Not accepted – National rules should be repealed

Subsystem	Distribution of remaining rules	National rules and acceptable national means of compliance	Examination of national rules and acceptable national means of compliance leading to a negative assessment	Agency assessment status
			<p>train paths. This parameter is a harmonised value for the area of use and is track independent, therefore not suitable for RCC.</p> <p>This requirement shall be mandatory for all vehicles (not only for ""GE wagons"", as defined in Appendix C. 20 of the TSI WAG)</p> <p>Agency examination:</p> <p>The EN14363:2016 is already required by LOC&PAS and WAG TSI. The combination of maximum speed and cant deficiency is a choice of the applicant. Specific combinations of speed and cant deficiency cannot be imposed at authorisation level.</p> <p>For WAG, performance requirement mentioned are already covered by TSI WAG appendix C 20. Running dynamic behaviour: <i>"The combination of maximum operating speed and maximum admissible cant deficiency shall be as shown in Table H.1 of EN 14363:2016"</i>. The rule refers in OBB INFRA document relates to checks that can be performed after authorisation of vehicle during the route compatibility checks.</p>	
RST	Other rules related to compatibility with network / legacy system	<p><u>3.2.1-Running safety and dynamics:</u></p> <p>Fahrsicherheit: Strecken mit Bogenradien < 250 m und gegebenenfalls Stoßlücken</p> <p>Nachweis des Fahrzeuges nach EN 14363 für Bogenradien < 250 m (""Prüfbereich 5"").</p> <p>Der Nachweis dieser Anforderung ist für RIV, TEN GE und TEN CW gekennzeichnete Fahrzeuge nicht erforderlich, wenn eine Befreiung von</p>	<p>The national rules refers to clause 4.2.3.4.2 of LOC&PAS TSI 1302/2014.</p> <p>NSA AT justification:</p> <p>Directive (EU) 2016/797, article 13 (2) - a): The European specification is incomplete. The requirements for this in the TSI, in particular in EN 14363, are only informative, therefore this NTR is necessary (see comment below)</p> <p>Directive (EU) 2016/797, article 13 (2) - d), e): This requirement is necessary for the compatibility with the entire network (see comment below).</p>	Not accepted - National rules should be modified

Subsystem	Distribution of remaining rules	National rules and acceptable national means of compliance	Examination of national rules and acceptable national means of compliance leading to a negative assessment	Agency assessment status
		<p>den Streckenversuchen (gemäß EN 16235) zulässig ist.</p> <p>Nähere Bestimmungen und die Nachweisführung sind dem ÖBB-INFRA RW 50.02.01 Kap. 1.2.3 bzw. ÖBB-INFRA RW 50.03.01 Kap. 6.1.2.3 zu entnehmen.</p>	<p>Directive (EU) 2016/797, Article 4 (2): Currently there is no specific case and therefore this NTR is necessary.</p> <p>Directive (EU) 2016/796, article 26 (2): NTR is non-discriminatory and does not restrict access.</p> <p>The entire network has a particularly high proportion of narrow curve radii (test area 5 of EN 14363). The EN 14363 does not contain any clear specifications in this respect. It is an evaluation of track loading in particularly tight curves (R < 250 m), not an evaluation of curve radii as in RCC.</p> <p>The reference to the involvement of the IM in the selection of test tracks will be deleted.</p> <p>There is no specific procedure for the organisation of tests. For freight wagons, this requirement is valid only if the wagon does not comply with RIV or TEN.</p> <p>Agency examination:</p> <p>The additional requirements for the running safety regarding test conditions and limit values for tracks with curves with radius lower than 250 m can be accepted taking into account the following:</p> <ul style="list-style-type: none"> - non-compliance with the requirements in the rule should not prevent the vehicle authorisation but only limit access to identified sections of the network where such conditions are encountered or AT should require a specific case as it seems that the curve < 250 m is covering the complete network. - The reference of involving OBB for the choice of the test paths and derogations from the procedure should be removed. 	

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			<p>The acceptance of this rule under the condition presented above is linked with the fact that EN 14363 doesn't cover harmonised requirements for the curves with radius below 250m.</p> <p>The reference to 6.1.2.3 do not exist in document : ÖBB-INFRA RW 50.03.01</p>	
RST	Other rules related to compatibility with network / legacy system	<p><u>4.5.3-Calculations related to thermal capacity:</u></p> <p>Thermische Leistungsfähigkeit der Bremsreibelemente in der Ebene und im Gefälle.</p> <p>Für die Thermische Leistungsfähigkeit der Bremsreibelemente sind folgende Szenarien nachzuweisen:</p> <ul style="list-style-type: none"> - Ebene: Zwei Schnellbremsungen in Folge aus Vmax im Beladezustand „Auslegungsmasse bei außergewöhnlicher Zuladung“ gemäß EN 15663 - Gefälle: Talfahrt Tauern-Südrampe (Abschnitt: Mallnitz-Obervellach bis Pusarnitz) im Beladezustand „Auslegungsmasse bei außergewöhnlicher Zuladung“ gemäß EN 15663 für ungünstige Betriebsfälle. <p>Nähere Bestimmungen und die Nachweisführung sind dem ÖBB-INFRA</p>	<p>The national rule refers to clause 4.2.4.5.4 Calculations related to thermal capacity of LOC&PAS TSI 1302/2014.</p> <p>NSA AT justification:</p> <p>Directive (EU) 2016/797, article 13 (2) - a): The European specification is incomplete. The entire network is not sufficiently covered by the requirements of the TSI. (see comment below)</p> <p>Directive (EU) 2016/797, article 13 (2) - d), e): This requirement is necessary for the compatibility with the entire network (see comment below).</p> <p>Directive (EU) 2016/797, article 4 (2): Currently there is no specific case and therefore this NTR is necessary.</p> <p>Directive (EU) 2016/796, article 26 (2): NTR is non-discriminatory and does not restrict access</p> <p>This NTR does not apply to TSI WAG (freight wagons), but to TSI Loc&Pas (Tfz, Tzg, Rzwg and Sfzg). The existing network has a considerable number of steep sections, distributed over the whole area, which exceed the parameters of the TSI Loc&Pas especially the gradient. The underlying line (Tauern South Ramp) for the NTR has a maximum gradient of 28‰ at 25 km length and a maximum speed of 110 km/h. This reference course is valid for all steep courses in Austria. This verification can only be omitted based on trials. These can be considered naturally, a clarification process will be initiated. This NTR must remain in place until a meaningful result, backed up</p>	Not accepted – National rules should be repealed

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		<p>RW 50.02.01 Kap. 6.1.3 bzw. ÖBB-INFRA RW 50.04.01 Kap. 6 zu entnehmen.</p>	<p>by a risk analysis, has been completed. It is also conceivable to adopt this NTR as a spec. case in due TSI. However, the following also applies here: NTR can only be deleted once a specific case is published in the TSI.</p> <p>The conditions on the ""Tauern-Südrampe"" are not equivalent with the Gothard.</p> <ul style="list-style-type: none"> - when the vehicles engage the Tauern-Südrampe a certain thermal load already exists. - the maximum allowed speed has to be considered too. <p>Agency examination:</p> <p>The national rules refers to validation of thermal capacity that is already covered by provisions in clause 4.2.4.5.4 LOC&PASTSI :</p> <p><i>"(4) The maximum line gradient, associated length and operating speed for which the brake system is designed in relation with brake thermal energy capacity shall also be defined by a calculation for the load condition 'maximum braking load', with the service brake being used to maintain the train at a constant operating speed.</i></p> <p><i>The result (maximum line gradient, associated length and operating speed) shall be recorded in the rolling stock documentation defined in clause 4.2.12 of this TSI.</i></p> <p><i>The following 'reference case' for the slope to be considered is suggested: maintain the speed of 80 km/h on a slope of 21 ‰ constant gradient over a distance of 46 km. If this reference case is used, the documentation may only mention the compliance to it."</i></p> <p>The TSI LOC&PAS suggests the use of a reference case that can be used by the applicant, in any case the applicant shall declare the thermal capacity characteristics as basic design characteristics</p>	

Subsystem	Distribution of remaining rules	National rules and acceptable national means of compliance	Examination of national rules and acceptable national means of compliance leading to a negative assessment	Agency assessment status
			<p>:Thermal capacity in terms of maximum line gradient, associated length and operating speed.</p> <p>The choice of the reference case is made by the applicant, the vehicle might have restrictions of use if at route compatibility check there is incompatibility.</p>	
RST	Other rules related to compatibility with network / legacy system	<p><u>8.2.2.2-Pantograph head geometry:</u></p> <p>Stromabnehmer - Geometrie</p> <p>In der Verordnung (EU) Nr.1302/2014; "TSI LOC&PAS" sind zwei Stromabnehmerwippenbreiten definiert. Für das Bestandsnetz gilt, dass eine Stromabnehmerwippe gemäß EN 50367 Fig.B2 (Type1) anzuwenden ist.</p> <p>Nähere Bestimmungen und die Nachweisführung sind den ÖBB-INFRA RW 50.02.01, Kap. 8.1 und ÖBB-INFRA RW 50.02.03, Kap. 5.2 zu entnehmen.</p>	<p>The national rules refers to clause 4.2.8.2.9.2.2 of TSI LOC&PAS 1302/2014.</p> <p>NSA AT justification:</p> <p>Directive (EU) 2016/797, article 13 (2) - a): The European specification is incomplete. Only a pantograph according to EN 50367 Fig. B2 (Type1) is to be used and allowed on the entire network.</p> <p>Directive (EU) 2016/797, article 13 (2) - d), e): The configuration "TSI vehicles" with existing network must be shown.</p> <p>Directive (EU) 2016/797, article 4 (2): There is currently no specific case and therefore this point is a NTR.</p> <p>Directive (EU) 2016/796, article 26 (2): NTR is non-discriminatory and does not restrict access.</p> <p>Note by ERA is not allowed in this way. The TSI LOC&PAS refers in chapter 4.2.8.2.9.2.2 to EN 50367. This standard allows several versions for the rocker width 1950 mm. NTR clearly specifies here which version is permissible. This NTR is therefore a necessary supplementary regulation to the TSI.</p> <p>Agency examination:</p> <p>Clause 4.2.8.2.9.2.2 of TSI LOC&PAS 1302/2014 mandates that the pantograph 1950mm shall comply with Annex A.2 Figure A.7.</p>	Not accepted - National rules should be modified

Subsystem	Distribution of remaining rules	National rules and acceptable national means of compliance	Examination of national rules and acceptable national means of compliance leading to a negative assessment	Agency assessment status
			<p>Does TSI compliant 1950mm (as in Annex A.2 Fig.A.7) are compatible with req of AT: in this case NR can be removed</p> <p>If AT maintains panto type 1 for TC with existing network AT should indicate features of the pantograph type 1 different from the TSI type. In this case NR may be acceptable and a SC should be required.</p>	
RST	Other rules related to compatibility with network / legacy system	<p><u>8.2.2.3-Pantograph contact force (including static contact force, dynamic behaviour and aerodynamic effects):</u></p> <p>Stromabnehmer - Kontaktkraft</p> <p>Aufgrund nicht TSI-konformer Oberleitungsbauarten in Bestandsnetzen sind entsprechende Kontaktkraftmessungen erforderlich. Eine entsprechende Adaptierung des Kontaktkraftverhaltens zwischen Oberleitung und Stromabnehmer ist nur möglich, wenn im Zuge der Genehmigung für in das Verkehrbringen technische Voraussetzungen am Fahrzeug vorgesehen sind. Der Grenzwert des Anhubes ist von der Oberleitungsbauart abhängig. Um die technische Kompatibilität mit dem bestehenden Netz in Österreich sicherzustellen, muss nachgewiesen werden, dass der Anhub am Seitenhalter für alle Oberleitungsbauarten die im angeführten Referenzdokument</p>	<p>The national rules refers to clause 4.2.8.2.9.5 and 4.2.8.2.9.6 of LOC&PAS TSI.</p> <p>NSA AT justification:</p> <p>Directive (EU) 2016/797, article 13 (2) - d), e): The configuration "TSI vehicles" with existing network must be shown</p> <p>Directive (EU) 2016/797, article 4 (2): There is currently no specific case and therefore this point is an NTR</p> <p>Directive (EU) 2016/796, article 26 (2): NTR is non-discriminatory and does not restrict access</p> <p>There are no pantograph requirements for rolling stock beyond the TSI.</p> <p>However, the overhead contact lines on the existing network are not always designed in accordance with TSI ENE. The correct interaction of the pantograph with regard to contact force and uplift of the contact wire must also be demonstrated for these non-TSI overhead contact line types. This must be done in accordance with the procedure described in the TSI. Therefore this NNTR must be maintained!</p> <p>Note on the ERA feedback: The uplift of the contact wire has nothing to do with the pantograph gauge (TSI ENE clause 4.2.10)</p> <p>Agency examination:</p>	Not accepted - National rules should be modified

Subsystem	Distribution of remaining rules	National rules and acceptable national means of compliance	Examination of national rules and acceptable national means of compliance leading to a negative assessment	Agency assessment status
		<p>festgelegten Grenzwerte nicht überschreitet.</p> <p>Nähere Bestimmungen und die Nachweisführung sind den ÖBB-INFRA RW 50.02.01, Kap. 8.1, Kap 8.2 und ÖBB-INFRA RW 50.02.03, Kap. 7 zu entnehmen.</p>	<p>Regarding static contact force: TSI Loc&Pas 4.2.8.2.9.5(2) the static contact force exerted by the pantograph on the contact wire, as defined above, shall be adjustable within at least the following ranges (consistent with the area of use of the pantograph): 60 N to 90 N for AC supply systems, the value of 70 N required by the national rule is covered by the range mentioned in the TSI.</p> <p>Concerning mean contact force: this aspect is covered in clause 4.2.8.2.9.6 Pantograph contact force and dynamic behaviour of TSI LOC&PAS. TSI vehicles should be compliant with 4.2.8.2.9.6 (i.e. see 4.2.8.2.9.6 (3)).</p> <p>Regarding procedure on demonstration, this aspect is covered by clause 4.2.8.2.9.6, the TSI has requirements in respect of the assessment procedure is to be followed.</p> <p>Is the rule deviating from the procedure? If not, the rule should only make reference to specific information to be used in the assessment procedure as described in TSI.</p>	
RST	Other rules related to compatibility with network / legacy system	<p><u>8.2.2.9-Running through phase or system separation sections:</u></p> <p>Zusammenwirken von Stromabnehmer und Fahrleitung - Befahren von Trennstellen</p> <p>Beim Befahren von Speisebereichtrennstellen müssen Züge von einem Speiseabschnitt auf den anderen fahren können, ohne dass die beiden Speisebereiche durch mehrere (maximal drei) angelegte Stromabnehmer überbrückt werden. Es dürfen beim Befahren von Trennstellen</p>	<p>The national rules refers to clause 4.2.8.2.9.7 of LOC&PAS 1302/2014.</p> <p>NSA AT justification:</p> <p>Directive (EU) 2016/797, article 13 (2) - d), e): This requirement applies to the entire network</p> <p>Directive (EU) 2016/796, article 26 (2): NTR is non-discriminatory and does not restrict access</p> <p>On the network there are protection lines which do not comply with the standard specifications (see RW 50.02.03, ED44 sheet 2 - protection line design conductor rail).</p> <p>A minimum pantograph distance of 15 m is required for driving on these protective lines. This shall be demonstrated in all possible</p>	Not accepted – National rules should be repealed

Subsystem	Distribution of remaining rules	National rules and acceptable national means of compliance	Examination of national rules and acceptable national means of compliance leading to a negative assessment	Agency assessment status
		<p>keinesfalls die angehobenen Stromabnehmer untereinander elektrisch verbunden sein.</p> <p>Nähere Bestimmungen und die Nachweisführung sind den ÖBB-INFRA RW 50.02.01, Kap. 8.2 und ÖBB-INFRA RW 50.02.03, Kap. 4.2 zu entnehmen."</p>	<p>train configurations, in analogy to the harmonised minimum pantograph spacing as defined in the TSI and in the standards</p> <p>Agency examination:</p> <p>For pre-defined and fixed formation, the rule is already covered by TSI LOC&PAS 4.2.8.2.9.7 Arrangement of pantographs (RST level) that refers to TSI ENE 4.2.13 regarding the distance between pantographs.</p> <p>For general operation, after vehicle authorisation RU when composing trains should take into account the minimum pantograph distance as referred in RINF 1.1.1.2.3.3 Requirements for number of raised pantographs and spacing between them, at the given speed. See clause 4.2.2.5 and appendix D1 of OPE TSI.</p>	
RST	Other rules related to compatibility with network / legacy system	<p><u>8.2.3.4-Detection of contact strip breakage:</u></p> <p>Stromabnehmer - automatische Senkeinrichtung</p> <p>Fahrzeuge müssen mit Stromabnehmern mit automatischer Senkeinrichtung ausgestattet sein. Dies erhöht die Verfügbarkeit des Netztes.</p> <p>Nähere Bestimmungen und die Nachweisführung sind den ÖBB-INFRA RW 50.02.01, Kap. 8.1 und ÖBB-INFRA RW 50.02.03, Kap. 5.2 zu entnehmen.</p>	<p>The national rule refers to clause 4.2.8.2.9.10 in TSI LOC&PAS 1302/2014.</p> <p>NSA AT justification:</p> <p>Directive (EU) 2016/797, article 13 (2) - a): The European specification is incomplete. On the entire network the requirement applies up to 0 km/h.</p> <p>Directive (EU) 2016/797, article 13 (2) - d), e): This requirement applies to the entire network.</p> <p>Directive (EU) 2016/796, article 26 (2): NTR is non-discriminatory and does not restrict access.</p> <p>There is no redundancy to the TSI LOC&PAS, because NTR demands in this point, contrary to the TSI LOC&PAS, an automatic lowering device independent of speed; also taking into account the existing network</p> <p>Agency examination:</p>	Not accepted – National rules should be repealed

Subsystem	Distribution of remaining rules	National rules and acceptable national means of compliance	Examination of national rules and acceptable national means of compliance leading to a negative assessment	Agency assessment status
			<p>The rules require installation of Automatic Dropping Device to all vehicles not specifying a speed and require more than the TSI.</p> <p>TSI Loc&Pas clause 4.2.8.2.9.10 indicates:</p> <p><i>"(4) Electric units of maximum design speed higher than 160 km/h shall be equipped with an ADD.</i></p> <p><i>(5) Electric units that require more than one pantograph raised in operation and of maximum design speed higher than 120 km/h shall be equipped with an ADD.</i></p> <p><i>(6) Other electric units are permitted to be equipped with an ADD."</i></p> <p>The Agency is in opinion that the rule is not related to vehicle authorisation.</p>	
RST	Other rules related to compatibility with network / legacy system	<p><u>10.3-Emergency running capabilities:</u></p> <p>Überbrückung der ausgelösten Maßnahmen.</p> <p>Nachweis der Überbrückung der durch das Ansprechen einer Brandmelde- bzw. Brandbekämpfungsanlage ausgelösten Maßnahme.</p> <p>Beim Ansprechen einer durch eine Brandmelde- bzw. Brandbekämpfungsanlage oder Brandschutzanlage ausgelösten Maßnahmen (z.B.: Abschaltung der Traktionsleistung, Sperre der Kraftstoffzufuhr, Abschaltung der Lüfter) muss die Möglichkeit der Räumung eines</p>	<p>The national rules refer to clause 4.2.10.4.4 of LOC&PAS TSI 1302/2014.</p> <p>NSA AT justification:</p> <p>Directive (EU) 2016/797, article 13 (2) - a): The entire network or the resulting safety requirements are not sufficiently covered by the requirements of the TSI. (see comment below).</p> <p>Directive (EU) 2016/797, article 13 (2) - d), e): The configuration of TSI rolling stock with the entire network shall be described.</p> <p>Directive (EU) 2016/796, article 26 (2): NTR is non-discriminatory and does not restrict access.</p> <p>The ERA comment is completely correct with regard to the reference to TSI Loc&Pas chapter 4.2.10.4.4 (running capability) and subsequently with regard to EN 50553.</p> <p>Only the reason for this NTR and its validity must be clarified once again.</p>	Not accepted – National rules should be repealed

Subsystem	Distribution of remaining rules	National rules and acceptable national means of compliance	Examination of national rules and acceptable national means of compliance leading to a negative assessment	Agency assessment status
		<p>Gefahrenbereichs (Tunnel, Brücke ..) bestehen.</p> <p>Nähere Bestimmungen und die Nachweisführung sind dem ÖBB-INFRA RW 50.02.01 Kap. 16 bzw. ÖBB-INFRA RW 50.04.01 Kap. 16 zu entnehmen.</p>	<p>According to TSI SRT, the basic objective in the event of a fire is to leave the danger zone in order to enable a safe evacuation.</p> <p>Due to the high proportion of tunnels in the existing network in Austria, this NTR is therefore in place. This NTR states that the measures triggered by events (e.g. braking, power cut-off) can be bridged (delayed) to enable the tunnel to leave the danger zone. This requirement is not specified in any TSI and does not contradict either the Loc&Pas TSI or the SRT TSI. Therefore this NTR is to be considered as a supplementary regulation and is necessary.</p> <p>In certain cases, when the ability to drive cannot be ensured, EN 50533 does not allow the bridging (delay) of the initial measures and these TSI vehicles must then be equipped with a fire fighting system. This is beyond question. In any case, the NTR requirement would contradict TSI / EN 50533. Therefore the scope of this NTR is defined as follows:</p> <p>NTR applies in principle to TSI and non-TSI rolling stock. However, if in certain cases the ability to drive is not ensured, then NTR does not apply to these TSI vehicles.</p> <p>Agency examination:</p> <p>The national rules is already fully covered by TSI LOC&PAS 1302/2014 4.2.10.4.4 and referred EN 50553:2012 and EN50553:2012/AC:2013. TSI requires that a unit shall be designed so that, in the event of fire on-board, the running capability of the train will enable it to run to a suitable firefighting point. See also TSI LOC&PAS 1302/2014 Application guide.</p>	
CCS	ETCS and GSM-R	<p><u>12.1.2.2-Other GSM-R requirements:</u></p> <p>Zugfunkeinrichtungen - GSM-R Sprachfunk.</p>	<p>The national rules refers to clause 7.4.2 of TSI CCS 2016/919.</p> <p>NSA AT justification:</p>	Not accepted – National rules should be repealed

Subsystem	Distribution of remaining rules	National rules and acceptable national means of compliance	Examination of national rules and acceptable national means of compliance leading to a negative assessment	Agency assessment status
		<p>Fahrzeuge mit entsprechend kompatiblen GSM-R-Funkmodulen sind, entsprechend ETSI-Spezifikation TS 102 933-1, Version 1.3.1 oder höher, auszurüsten.</p> <p>Nähere Bestimmungen und die Nachweisführung sind den ÖBB-INFRA RW 50.02.01, Kap. 19.4 und ÖBB-INFRA RW 50.04.01, Verweis auf ÖBB-INFRA RW 50.02.01 zu entnehmen.</p>	<p>Directive (EU) 2016/797, article 13 (2) - a): The European specification is incomplete.</p> <p>Directive (EU) 2016/796, Article 26 (2): NTR is non-discriminatory and does not restrict access.</p> <p>Requirement applies to voice radio and to new vehicles to be approved, which are equipped with new GSM-R modules anyway. Requirements for existing vehicles can be found in the SNNB. Purpose of this NTR: to avoid radio interruptions by newly established public transmitters using ""neighbouring"" frequency bands which have been approved by the Austrian Broadcasting Authority.</p> <p>The rule is necessary for network compatibility to solve issue related to interference with other GSM networks.</p> <p>Agency examination:</p> <p>The national rules refers to clause 7.4.2 of TSI CCS. GSM-R baseline 1 applies for all new authorisations including extension of area of use if required for technical compatibility where voice or data communication are concerned, this is already covered by the TSI CCS and the rule is redundant.</p> <p>For all other cases (e.g. existing vehicles already equipped with GSM-R baseline 0) it is an exported constraint and the rule is not acceptable.</p>	
CCS	ETCS and GSM-R	<p><u>12.2.5.7-Other ETCS requirements (related to existing not interoperable networks):</u></p> <p>GSM-R- Funkmodule</p> <p>Fahrzeuge sind mit kompatiblen GSM-R-Funkmodulen der letzten Generation,</p>	<p>The national rules refers to clause 7.4.2 of TSI CCS 2016/919.</p> <p>NSA AT justification:</p> <p>Directive (EU) 2016/797, article 13 (2) - a): The European specification is incomplete.</p>	Not accepted – National rules should be repealed

Subsystem	Distribution of remaining rules	National rules and acceptable national means of compliance	Examination of national rules and acceptable national means of compliance leading to a negative assessment	Agency assessment status
		<p>entsprechend ETSI-Spezifikation TS 102 933-1, Version 1.3.1 oder höher, auszurüsten. Dies gilt für Fahrzeuge mit TSI CCS vor 2016.</p> <p>Nähere Bestimmungen und die Nachweisführung sind den ÖBB-INFRA RW 50.02.01, Kap. 19.5 und ÖBB-INFRA RW 50.04.01, Verweis auf ÖBB-INFRA RW 50.02.01 zu entnehmen.</p>	<p>Directive (EU) 2016/797, article 13 (2) - d), e): This requirement applies to the entire network.</p> <p>Directive (EU) 2016/796, Article 26 (2): NTR is non-discriminatory and does not restrict access</p> <p>Requirement applies to radio data transmission and to vehicles to be newly approved, which are equipped with new GSM-R modules anyway. Requirements for existing vehicles can be found in the SNNB. Purpose of this NTR: to avoid radio interruptions by newly established public transmitters with ""neighbouring"" frequency bands that have been approved by the Austrian Broadcasting Authority.</p> <p>The rule is necessary for network compatibility to solve issue related to interference with other GSM networks.</p> <p>Agency examination:</p> <p>GSM-R baseline 1 applies for all new authorisations, including extension of area of use if required for technical compatibility where voice or data communication are concerned, this is already covered by the TSI CCS and the rule is redundant.</p> <p>For all other cases (e.g. existing vehicles already equipped with GSM-R baseline 0) it is an exported constraint and the rule is not acceptable.</p>	
CCS	ETCS and GSM-R	<p><u>12.2.5.7-Other ETCS requirements (related to existing not interoperable networks):</u></p> <p>Infillfunktion</p> <p>Verpflichtende Infillfunktion für ETCS Level 1 mit Balisen und Loops.</p>	<p>The rule refers to clause 7.2.6(2) of TSI CCS 2016/919</p> <p>NSA AT justification:</p> <p>Directive (EU) 2016/797, article 13 (2) - a): The European specification is incomplete.</p> <p>Directive (EU) 2016/797, article 13 (2) - d), e): This requirement applies to the entire network.</p>	Not accepted – National rules should be repealed

Subsystem	Distribution of remaining rules	National rules and acceptable national means of compliance	Examination of national rules and acceptable national means of compliance leading to a negative assessment	Agency assessment status
		<p>Nähere Bestimmungen und die Nachweisführung sind den ÖBB-INFRA RW 50.02.01, Kap.19.5 und ÖBB-INFRA RW 50.04.01, Verweis auf ÖBB-INFRA RW 50.02.01 zu entnehmen.</p>	<p>Directive (EU) 2016/796, Article 26 (2): NTR is non-discriminatory and does not restrict access</p> <p>In the TSI valid at the time of commissioning of the ETCS Level 1 lines, there was no requirement as today in TSI 2019. This restriction was only introduced from TSI 2016 onwards.</p> <p>This means that the conditions of use for ETCS were subsequently changed by the EC! With TSI 2016, the ERA has changed the wording regarding LOOP and thus restricted a requirement of LOOPS compared to TSI 2008. Thus, 4 years after the ETCS lines were put into operation, the conditions in the TSI were changed!</p> <p>This is not acceptable for the infrastructure. NTR has to remain in spite of a release speed of 20 km/h!</p> <p>Aspects covered are the distance to the signal and the allowed speed to approach the signal.</p> <p>Infill is mandatory.</p> <p>Agency examination:</p> <p>The national rule mandates the use of euroloop infill.</p> <p>The TSI requirement (release speed set to 0) is not demonstrated; therefore, the Euroloop Infill cannot be mandatory because is an exported constraint.</p> <p>On current lines infill loops are present.</p>	
CCS	ETCS and GSM-R	<p><u>12.2.5.7-Other ETCS requirements (related to existing not interoperable networks):</u></p> <p>Erfüllung UNISIG Subset-093 v2.3.0</p>	<p>The rule refers to clause Annex 6.1.2.5 of TSI CCS 2016/919</p> <p>NSA AT justification:</p> <p>After the publication of the update of Subset-093, this requirement will be named as RSC (ÖBB) according to TSI CCS. Until then, continue as NNTR.</p>	Not accepted – National rules should be repealed

Subsystem	Distribution of remaining rules	National rules and acceptable national means of compliance	Examination of national rules and acceptable national means of compliance leading to a negative assessment	Agency assessment status
		<p>Das QoS - Management umfasst Maßnahmen bezüglich der Qualität (u.a. Echtzeitkommunikation) der ETCS-Anwendung. Die Erfüllung der QoS-Erfordernisse von UNISIG Subset-093 sind im Zuge der Funkschnittstellenkapazität (Transportkanalleistung) erforderlich.</p> <p>Nähere Bestimmungen und die Nachweisführung sind den ÖBB-INFRA RW 50.02.01, Kap. 19.5 und ÖBB-INFRA RW 50.04.01, Verweis auf ÖBB-INFRA RW 50.02.01 zu entnehmen.</p>	<p>Agency examination:</p> <p>The RSC checks proposed by OBB Infra manager already cover the aspects of the national rule</p>	
CCS	ETCS and GSM-R	<p><u>12.2.5.7-Other ETCS requirements (related to existing not interoperable networks):</u></p> <p>Zugbeeinflussung - PZB / LZB - Funktionalitäten</p> <p>Für das Bestandnetz müssen Fahrzeuge mit PZB und zusätzlich für Geschwindigkeiten über 160 km/h mit LZB ausgerüstet sein. Hauptgleise, auf denen mehr als 160 km/h zugelassen sind, müssen mit Zugbeeinflussung ausgerüstet sein, durch die ein Zug selbsttätig zum Halten gebracht und außerdem geführt werden kann (hier LZB). Im Agency-Dokument ""ERA/TD/2011-11, List Of Class B</p>	<p>The rule refers to Annex §7.2.5 of TSI CCS 2016/919.</p> <p>NSA AT justification:</p> <p>The supplier of by far the largest part of the network equipped with the Class A train protection system has issued this rule as a safety-related condition for using the system in parallel with the existing Class B system and has not yet been able to correct the fault. There is now a new system tender for the future equipping of the entire ÖBB route network with ETCS, which will solve this problem. Until then, this requirement is necessary for safety reasons.</p> <p>Agreed to apply for a temporary specific case.</p> <p>Agency examination:</p> <p>In document ÖBB-INFRA RW 50.02.01, Kap. 19.5- clause "<i>Inkl. Beschreibung aller am Tfz vorhandenen Zugbeeinflussungssysteme Für den Einsatz im Streckennetz der ÖBB-Infrastruktur AG muss mindestens die PZB 90 Funktionalität (INDUSI) vorhanden sein (bei Neuzulassungen, Halterwechsel, ...)Dies gilt für: ... - den Einsatz von Fahrzeugen auf ETCS Level 2 Strecken (für das Aufstarten)</i>" is in</p>	Not accepted - National rules should be modified

Subsystem	Distribution of remaining rules	National rules and acceptable national means of compliance	Examination of national rules and acceptable national means of compliance leading to a negative assessment	Agency assessment status
		<p>Systems"" ist für Österreich PZB und LZB angeführt.</p> <p>Nähere Bestimmungen und die Nachweisführung sind den ÖBB-INFRA RW 50.02.01, Kap. 19.5 und ÖBB-INFRA RW 50.04.01, Verweis auf ÖBB-INFRA RW 50.02.01 zu entnehmen.</p>	<p>contradiction with TSI CCS §7.2.5 ""When running on a line which is equipped with both Class A and Class B systems, a train that is also equipped with both Class A and Class B systems may use the Class B systems as a fallback arrangement. Being equipped with a Class B system in addition to Class A shall not be a requirement for the compatibility of a vehicle with lines where Class B is installed in parallel with Class A."" The rule shall be modified in order to indicate until when this limitation applies and specific case shall be requested</p>	
CCS	ETCS and GSM-R	<p><u>12.2.5.8-Specification of condition of use where ETCS on-board does not implement all functions, interfaces and performances:</u></p> <p>Betriebliche Bedingungen, Nachweise, Tests</p> <p>Es muss die Konformität der ETCS-Fahrzeugausrüstung mit den betrieblichen Prozessen der Infrastruktur gewährleistet sein. Hierzu sind die entsprechenden betrieblichen Szenarien (Testszenarien gemäß Leitfaden Betriebsführung ETCS bzw. Anhang 1 zum Leitfaden Betriebsführung ETCS) zu erproben und nachzuweisen.</p> <p>Nähere Bestimmungen und die Nachweisführung sind den ÖBB-INFRA RW 50.02.01, Kap. 19.5 und ÖBB-INFRA</p>	<p>The rule refers to clause Annex 6.1.2.4 of TSI CCS 2016/919.</p> <p>NSA AT justification:</p> <p>to check with the IM the status of the RSC/ESC notification</p> <p>Agency examination:</p> <p>The ESC checks proposed by OBB Infra manager already cover the aspects of the national rule.</p>	Not accepted - National rules should be repealed

Subsystem	Distribution of remaining rules	National rules and acceptable national means of compliance	Examination of national rules and acceptable national means of compliance leading to a negative assessment	Agency assessment status
		RW 50.04.01, Verweis auf ÖBB-INFRA RW 50.02.01 zu entnehmen.		