



Council of the
European Union

Brussels, 16 January 2015
(OR. en)

5363/15

TRANS 21

COVER NOTE

From:	European Commission
date of receipt:	15 January 2015
To:	General Secretariat of the Council
No. Cion doc.:	D036059/02
Subject:	COMMISSION REGULATION (EU) No .../.. of XXX amending Decision 2012/757/EU concerning the technical specification for interoperability relating to the 'operation and traffic management' subsystem of the rail system in the European Union

Delegations will find attached document D036059/02.

Encl.: D036059/02



Brussels, **XXX**
[...](2014) **XXX** draft

COMMISSION REGULATION (EU) No .../..

of XXX

**amending Decision 2012/757/EU concerning the technical specification for
interoperability relating to the ‘operation and traffic management’ subsystem of the rail
system in the European Union**

COMMISSION REGULATION (EU) No .../..

of **XXX**

amending Decision 2012/757/EU concerning the technical specification for interoperability relating to the ‘operation and traffic management’ subsystem of the rail system in the European Union

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community¹, and in particular Article 6(1) thereof,

Whereas:

- (1) Article 12 of Regulation (EC) No 881/2004 of the European Parliament and of the Council² requires the European Railway Agency (‘the Agency’) to ensure that the technical specifications for interoperability (‘the TSIs’) are adapted to technical progress, market trends and social requirements and to propose to the Commission the amendments to the TSIs which it considers necessary.
- (2) By Decision C(2010) 2576 of 29 April 2010, the Commission gave the Agency a mandate to develop and review the TSIs with a view to extending their scope to the whole rail system in the Union. Under the terms of that mandate, the Agency was requested to extend the scope of the TSI relating to the ‘operation and traffic management’ subsystem, to the whole rail system in the Union.
- (3) Following the Commission's report on the profile and tasks of other train crew members³, the Commission asked the Agency to identify the common safety critical tasks of other crew members not related to vehicle design/rolling stock and to define the scope of Appendix J to Decision 2012/757/EU (TSI OPE).
- (4) On 18 December 2013 and on 18 July 2014, the Agency issued two recommendations on the amendments to the TSI relating to the ‘operation and traffic management’ subsystem (ERA-REC-100-2013/REC and ERA-REC-101-2014/REC).
- (5) Decision 2012/757/EU should therefore be amended accordingly.

¹ OJ L 191, 18.7.2008, p.1

² Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European railway agency (OJ L 164, 30.4.2004, p. 1).

³ Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the profile and tasks of other train crew members (COM(2013) 33 final, 30.01.2013)

- (6) The operation and traffic management TSI established by this Regulation does not deal with all essential requirements. In accordance with Article 5(6) of Directive 2008/57/EC, technical aspects which are not covered by it should be identified as ‘open points’ governed by national rules applicable in each Member State.
- (7) Implementation, and conformity with the relevant points, of the TSI set out in the Annex, should be determined in accordance with an implementation plan that each Member State is required to update for the lines for which it is responsible.
- (8) Rail traffic currently operates under national, bilateral, multinational or international agreements. It is important that these do not hinder current and future progress towards interoperability. The Member States should therefore notify such agreements to the Commission.
- (9) Directive 2008/57/EC defines the ‘operation and traffic management’ subsystem as functional. Consequently, the compliance with the TSI on operation and traffic management is not assessed when authorising a vehicle to be brought into service but should be assessed when assessing the safety management systems of railway undertakings and infrastructure managers.
- (10) The measures provided for in this Regulation are in accordance with the opinion of the Committee established in accordance with Article 29(1) of Directive 2008/57/EC,

HAS ADOPTED THIS REGULATION:

Article 1

Decision 2012/757/EU is amended as follows:

- (1) Articles 1, 2 and 3 are replaced by the following:

‘Article 1

Subject matter

The technical specification for interoperability (TSI) relating to the ‘operation and traffic management’ subsystem of the rail system in the entire European Union, as set out in the Annex, is hereby adopted.

Article 2

Scope

1. The TSI set out in the Annex shall apply to the ‘operation and traffic management’ subsystem of the rail system in the Union as defined in point 2.5 of Annex II to Directive 2008/57/EC.
2. The TSI shall apply to the following networks:

- (a) the trans-European conventional rail system network as defined in section 1.1 of Annex I to Directive 2008/57/EC;
- (b) the trans-European high-speed rail system network (TEN) as defined in section 2.1 of Annex I to Directive 2008/57/EC; and
- (c) other parts of the network of the rail system in the Union;

It excludes the cases referred to in Article 1(3) of Directive 2008/57/EC.

Article 3

Open points

1. With regard to the issues classified as ‘open points’ referred to in Appendix I of the Annex to this Regulation, the conditions to be complied with for verifying the interoperability pursuant to Article 17(3) of Directive 2008/57/EC shall be as set out in the national rules applicable in the Member State where the operation takes place.
2. Within six months of the application date of this Regulation, each Member State shall inform the other Member States and the Commission of its relevant national rules.

Article 3a

Specific cases

1. With regard to specific cases referred to in point 7.3 of the Annex to this Regulation, the conditions to be met for the verification of interoperability pursuant to Article 17(3) of Directive 2008/57/EC shall be as set out in the national rules applicable in the Member State where the operation takes place.
2. Within six months of the application date of this Regulation, each Member State shall inform the other Member States and the Commission of its relevant national rules.

Article 3b

Notification of bilateral agreements

Member States shall notify the Commission of the following types of agreement by [6 months after the application date] at the latest, provided they have not already done so under Commission Decision 2006/920/EC⁴, 2008/231/EC⁵, 2011/314/EU⁶ or 2012/757/EU⁷:

⁴ Commission Decision 2006/920/EC of 11 August 2006 concerning the technical specification of interoperability relating to the subsystem ‘Traffic Operation and Management’ of the trans-European conventional rail system (OJ L 359, 18.12.2006, p. 1.)

⁵ Commission Decision 2008/231/EC of 1 February 2008 concerning the technical specification of interoperability relating to the operation subsystem of the trans-European high-speed rail system

- (a) national agreements between the Member States and railway undertakings or infrastructure managers, agreed on a permanent or temporary basis and required by the very specific or local nature of the intended transport service;
- (b) bilateral or multilateral agreements between railway undertakings, infrastructure managers or safety authorities which deliver significant levels of local or regional interoperability; and
- (c) international agreements between one or more Member States and at least one third country, or between railway undertakings or infrastructure managers of Member States and at least one railway undertaking or infrastructure manager of a third country, which deliver significant levels of local or regional interoperability.

Article 3c

Notification of rules related to the type of rear end signal

Member States shall notify the Commission of the rules defining the type of rear end signal, as described in points 4.2.2.1.3.2 and 4.2.2.1.3.3 of the Annex, by *[6 months after the application date]* at the latest, provided they have not already been notified under Commission Decision 2006/920/EC, 2008/231/EC, 2011/314/EU or 2012/757/EU.

Article 3d

Implementation

1. The steps to be followed for the implementation of an interoperable operation and traffic management subsystem are set out in section 7 of the Annex.
2. Member States shall prepare a national implementation plan, describing the actions they plan to take to comply with this Regulation, in accordance with section 7 of the Annex.

Member States shall notify their national implementation plans to the Commission no later than *[insert date - 24 months after the date of application of this Regulation]*. Member States shall also notify possible updates to these national implementation plans.

3. The Commission shall publish the national implementation plans, and any subsequent revisions notified, on its website and inform Member States about them through the Committee referred to in Directive 2008/57/EC.

adopted referred to in Article 6(1) of Council Directive 96/48/EC and repealing Commission Decision 2002/734/EC of 30 May 2002 (OJ L 84, 26.3.2008, p.1).

⁶ Commission Decision 2011/314/EU of 12 May 2011 concerning the technical specification for interoperability relating to the 'operation and traffic management' subsystem of the trans-European conventional rail system (OJ L 144, 31.5.2011, p. 1).

⁷ Commission Decision 2012/757/EU of 14 November 2012 concerning the technical specification for interoperability relating to the operation and traffic management subsystem of the rail system in the European Union and amending Decision 2007/756/EC (OJ L 345, 15.12.2012, p. 1)

4. Member States that have already sent their updated implementation plan shall not be required to send it again. ’

(2) Annex I is replaced by the Annex to this Regulation.

Article 2

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 July 2015.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President