

COMMISSION IMPLEMENTING DECISION (EU) 2022/1319**of 26 July 2022****accepting a request submitted by France pursuant to Article 7(4) of Directive (EU) 2016/797 of the European Parliament and of the Council for the non-application of certain technical specification for interoperability (TSI) provisions for re-configuration of existing rolling stock into 19 TGV P-DUPLEX trainsets***(notified under document C(2022) 5150)***(Only the French text is authentic)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union ⁽¹⁾, and in particular Article 7(4) thereof,

Whereas:

- (1) On 10 December 2021, France submitted to the Commission, in accordance with Article 7(4) of Directive (EU) 2016/797, a request for the non-application of certain provisions laid down in the technical specifications for interoperability ('TSI') set out in the Annex to Commission Regulation (EU) No 1302/2014 ⁽²⁾ ('LOC&PAS TSI'), in the TSI set out in the Annex to Commission Regulation (EU) No 1300/2014 ⁽³⁾ ('PRM TSI') and in the TSI set out in the Annex to Commission Regulation (EU) No 1304/2014 ⁽⁴⁾ ('NOI TSI'), to a rolling stock upgrade project, regarding 19 trainsets designed to operate on the French rail network.
- (2) The request was submitted on the basis of Article 7(1), point (c) of Directive (EU) 2016/797, namely the lack of economic viability of the project when performing the upgrade of the trainsets concerned.
- (3) The request concerns reconstructing 19 trainsets whose engines and coaches had been separated when they were produced in 2006. Because of the market demand at that time, the locomotives of those trainsets were operated, and are still currently operated, as co-joined coach type 'Réseau 1N' and the coaches of those trainsets were operated as co-joined locomotive type 'Réseau'.
- (4) Today, those trainsets are close to their half-life maintenance stop. A maintenance intervention is planned to ensure their safe operation for another 16 years. The maintenance intervention envisages the rejoining of the original locomotives and coaches. The work phase of the upgrade is to take place between 2022 and 2025 with the first trainsets having entered the workshops in February 2022. The target is to obtain the type authorisation for the 19 trainsets covered by the upgrade by December 2023. It will be followed by authorisations on the conformity to type for each trainset.

⁽¹⁾ OJ L 138, 26.5.2016, p. 44.

⁽²⁾ Commission Regulation (EU) No 1302/2014 of 18 November 2014 concerning a technical specification for interoperability relating to the 'rolling stock – locomotives and passenger rolling stock' subsystem of the rail system in the European Union (OJ L 356, 12.12.2014, p. 228).

⁽³⁾ Commission Regulation (EU) No 1300/2014 of 18 November 2014 on the technical specifications for interoperability relating to accessibility of the Union's rail system for persons with disabilities and persons with reduced mobility (OJ L 356, 12.12.2014, p. 110).

⁽⁴⁾ Commission Regulation (EU) No 1304/2014 of 26 November 2014 on the technical specification for interoperability relating to the subsystem 'rolling stock – noise' amending Decision 2008/232/EC and repealing Decision 2011/229/EU (OJ L 356, 12.12.2014, p. 421).

- (5) The authorisation strategy for the re-configuration process is based on a 'new' authorisation, as a variant of the type TGV Duplex, already previously authorised. Under such conditions, only the modified parts of the coaches will have to be brought into conformity with the TSI. The locomotives are not subject to any changes, but are regarded as new elements to the TGV Duplex type and their authorisation is to be considered a 'first' authorisation which requires a demonstration of full compliance with the current TSIs LOC&PAS, NOI and PRM.
- (6) The locomotives and coaches of the 19 trainsets subject to upgrade and re-configuration comply with the standards and TSIs applicable at the time of their production. Since 2006, the relevant TSIs were subject to development and enhanced requirements. The non-application is requested in view that where the current TSIs are applied to already existing trainsets, they would imply significant additional upgrade and re-configuration costs, as well as considerable delay in bringing the trainsets back into operations.
- (7) Moreover, the application of points 4.2.3.1, 4.2.8.2.6, 4.2.10.4.4, 4.2.3.3.2, 4.2.3.7. and 4.2.8.2.9 of the Annex to Regulation (EU) No 1302/2014, points 4.2.1, 4.2.2 and 4.2.3 of the Annex to Regulation (EU) No 1304/2014 and point 4.2.2.1. of the Annex to Regulation (EU) No 1300/2014 would require the supplier to undertake major development studies, resource allocation and additional material costs which would call into question the economic viability of the project, in the light that the estimated unit cost of the project would increase by more than 60 %.
- (8) The supplementary cost cannot be absorbed by the 19 trainsets without questioning the economic relevance and viability of the upgrading and re-configuration project.
- (9) In the framework of the project, compliance with other provisions of the current TSIs will be ensured, including modification of interior lighting, interior platform and passenger spaces, front windows, lamps and control lamps, emergency couplings, audible warning devices, interior signalling, pictograms and tactile information and the cabin sound generator in compliance with points 4.2.9.1.8, 4.2.9.2.1, 4.2.7.1.1 to 4.2.7.1.4, 4.2.7.2.1 and 4.2.2.7.2 of the Annex to Regulation (EU) No 1302/2014 and point 4.2.2.4 of the Annex to Regulation (EU) No 1300/2014.
- (10) The project will also ensure that the 19 trainsets fully comply with Commission Regulation (EU) 2016/919 ^(*), including an upgrade to ERTMS Baseline 3.
- (11) If the non-application request is not accepted, the transport capacity in the area of future use of the 19 trainsets risks being affected to the detriment of rail passengers. The project would be delayed by approximately 3 years. A halt to the project would lead to the removal from service of the trains, affecting the commercial stakes of the operator in 2023, during the post-Covid-19 recovery of the railway sector. That loss of revenue for the operator is estimated to be more than 100 million euro.
- (12) Information on the non-application request was shared by French representatives with the members of the Committee referred to in Article 51(1) of Directive (EU) 2016/797 during its 93rd meeting.
- (13) Any potential impact on the safety of the non-application of certain provisions of LOC & PAS, PRM and NOI TSIs are mitigated by the fact that the re-configured 19 trainsets have already demonstrated conformity with the respective safety requirements applicable at the time of their original authorisation in 2006 and were since safely operated.

^(*) Commission Regulation (EU) 2016/919 of 27 May 2016 on the technical specification for interoperability relating to the 'control-command and signalling' subsystems of the rail system in the European Union (OJ L 158, 15.6.2016, p. 1).

- (14) In the light of the foregoing, the Commission considers that the conditions set out in Article 7(1)(c) and Article 7(4) of Directive (EU) 2016/797 should be considered fulfilled for the engines and coaches of the 19 trainsets concerned. Therefore, the request submitted by France for the non-application of points 4.2.3.1, 4.2.8.2.6, 4.2.10.4.4, 4.2.3.3.2, 4.2.3.7. and 4.2.8.2.9 of the Annex to Regulation (EU) No 1302/2014, points 4.2.1, 4.2.2 and 4.2.3 of the Annex to Regulation (EU) No 1304/2014 and point 4.2.2.1 of the Annex to Regulation (EU) No 1300/2014, while mitigating the non-application of those points by the application of the provisions in force at the time of their original authorisation as alternative provisions, should be accepted.
- (15) The measures provided for in this Decision are in accordance with the opinion of the Committee referred to in Article 51(1) of Directive (EU) 2016/797,

HAS ADOPTED THIS DECISION:

Article 1

The request by France for the non-application of the technical specifications of interoperability (TSI) provisions set out in the Annexes to Regulation (EU) No 1302/2014, Regulation (EU) No 1300/2014 and Regulation (EU) No 1304/2014, as referred to in Annex I to this Decision, to the 19 re-configured TGV P-DUPLEX trainsets consisting of the vehicles listed in Annex II to this Decision is accepted.

The provisions subject of the non-application request referred to in the first paragraph, together with the alternative provisions that shall be applied are listed in Annex I.

The area of use of the vehicles listed in Annex II shall be France.

Article 2

This Decision is addressed to the French Republic.

Done at Brussels, 26 July 2022.

For the Commission
Adina-Ioana VĂLEAN
Member of the Commission

ANNEX I

The following table list the provisions covered by Article 1 that do not need to be applied and the provisions that shall be applied instead.

TSI provision not applied	Alternative provision applied
LOC&PAS TSI 4.2.3.1 – gauging	For engines: UIC leaflets 505-1 and 506 For coaches: EN 15273-2 (November 2017), Commission Decision 2008/232/EC (repealed HS RST TSI), Commission Decision 2011/291/EU (repealed LOC&PAS TSI)
LOC&PAS TSI 4.2.8.2.6 – power factor	EC certificate of verification ref: 0942/6/SH2/2007/RST/FR-EN/ECA1178AD0048
LOC&PAS TSI 4.2.10.4.4 – running capability	French standard NF F16-103
LOC&PAS TSI 4.2.3.3.2 – axle bearing condition monitoring	French specification SAMI D 001
LOC&PAS TSI 4.2.3.7. – life guards	French Order ‘arrêté MR’ of 05 June 2000 § 2.2.1
LOC&PAS TSI 4.2.8.2.9 – requirements linked to pantograph	Commission Decision 2002/735/EC (repealed HS RST TSI), French Order ‘arrêté MR’ of 05 June 2000 § 3.2.1, UIC leaflet 608
NOI TSI 4.2.1 – limits for stationary noise	Commission Decision 2002/735/EC (repealed HS RST TSI)
NOI TSI 4.2.2 – limits for starting noise	
NOI TSI 4.2.3 – limits for pass-by noise	
PRM TSI 4.2.2.1 – seats	Commission Decision 2008/164/EC (repealed PRM TSI)

ANNEX II

The following tables list the European Vehicle Numbers (EVN as defined by Commission Implementing Decision (EU) 2018/1614) of the engines and coaches covered by Article 1 to be re-configured into TGV P-DUPLEX trainsets.

The ordering of the rows in the tables is without prejudice to the 'engines + coaches' pairs to be formed.

The EVNs of the engines and coaches may change after the re-configuration.

Table 2.1

Engines

Engine 1	Engine 2
93870384001-8	93870384002-6
93870384003-4	93870384004-2
93870384007-5	93870384008-3
93870384009-1	93870384010-9
93870384011-7	93870384012-5
93870384013-3	93870384014-1
93870384015-8	93870384016-6
93870384017-4	93870384018-2
93870384019-0	93870384020-8
93870384021-6	93870384022-4
93870384023-2	93870384024-0
93870384025-7	93870384026-5
93870384027-3	93870384028-1
93870384005-9	93870384006-7
93870384029-9	93870384030-7
93870384031-5	93870384032-3
93870384033-1	93870384034-9
93870384035-6	93870384036-4
93870384037-2	93870384038-0

Table 2.2

Coaches

Coach 1	Coach 2	Coach 3	Coach 4	Coach 5	Coach 6	Coach 7	Coach 8
93870291601-7	93870292601-6	93870293601-5	93870294601-4	93870295601-3	93870296601-2	93870297601-1	93870298601-0
93870291602-5	93870292602-4	93870293602-3	93870294602-2	93870295602-1	93870296602-0	93870297602-9	93870298602-8
93870291604-1	93870292604-0	93870293604-9	93870294604-8	93870295604-7	93870296604-6	93870297604-5	93870298604-4
93870291605-8	93870292605-7	93870293605-6	93870294605-5	93870295605-4	93870296605-3	93870297605-2	93870298605-1
93870291606-6	93870292606-5	93870293606-4	93870294606-3	93870295606-2	93870296606-1	93870297606-0	93870298606-9
93870291607-4	93870292607-3	93870293607-2	93870294607-1	93870295607-0	93870296607-9	93870297607-8	93870298607-7
93870291608-2	93870292608-1	93870293608-0	93870294608-9	93870295608-8	93870296608-7	93870297608-6	93870298608-5
93870291609-0	93870292609-9	93870293609-8	93870294609-7	93870295609-6	93870296609-5	93870297609-4	93870298609-3
93870291610-8	93870292610-7	93870293610-6	93870294610-5	93870295610-4	93870296610-3	93870297610-2	93870298610-1
93870291611-6	93870292611-5	93870293611-4	93870294611-3	93870295611-2	93870296611-1	93870297611-0	93870298611-9
93870291612-4	93870292612-3	93870293612-2	93870294612-1	93870295612-0	93870296612-9	93870297612-8	93870298612-7
93870291616-5	93870292616-4	93870293616-3	93870294616-2	93870295616-1	93870296616-0	93870297616-9	93870298616-8
93870291617-3	93870292617-2	93870293617-1	93870294617-0	93870295617-9	93870296617-8	93870297617-7	93870298617-6
93870291603-3	93870292603-2	93870293603-1	93870294603-0	93870295603-9	93870296603-8	93870297603-7	93870298603-6
93870291619-9	93870292619-8	93870293619-7	93870294619-6	93870295619-5	93870296619-4	93870297619-3	93870298619-2
93870291613-2	93870292613-1	93870293613-0	93870294613-9	93870295613-8	93870296613-7	93870297613-6	93870298613-5
93870291614-0	93870292614-9	93870293614-8	93870294614-7	93870295614-6	93870296614-5	93870297614-4	93870298614-3
93870291615-7	93870292615-6	93870293615-5	93870294615-4	93870295615-3	93870296615-2	93870297615-1	93870298615-0
93870291618-1	93870292618-0	93870293618-9	93870294618-8	93870295618-7	93870296618-6	93870297618-5	93870298618-4