



2024/255

19.1.2024

COMMISSION IMPLEMENTING DECISION (EU) 2024/255

of 17 January 2024

accepting a request submitted by the French Republic pursuant to Article 7(4) of Directive (EU) 2016/797 of the European Parliament and of the Council for the temporary non-application of point 7.4.2.1 of the Annex to Commission Regulation (EU) 2016/919 to four vehicles V300 Zefiro I-F

(notified under document C(2024) 203)

(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 11 May 2023, France submitted to the Commission, in accordance with Article 7(4) of Directive (EU) 2016/797, a request for the temporary non-application of point 7.4.2.1 of the Annex to Commission Regulation (EU) 2016/919 ⁽²⁾ ('the CCS-TSI'), to four vehicles V300 Zefiro I-F identified with the numbers ERT1000 -23, ERT1000 -28, ERT1000 - 31 and ERT1000 -47.
- (2) The request concern V300 Zefiro I-F vehicles which were initially purchased by Trenitalia S.p.A (by contract No 14625 of 30 September 2010) as part of a fleet of 50 vehicles for operation on the Italian rail system network. On 22 October 2021, Trenitalia S.p.A. (by contract No 4669), requested the upgrade of three vehicles of the original fleet for the purposes of operating them on a cross-border service between France and Italy. On 7 November 2021, Trenitalia S.p.A., by letter of intent with reference TRNIT-DACQ.ACQR \P \2022 \0040367, requested the upgrade of one additional vehicle for the same purposes. The upgraded vehicle type is referred to as V300 Zefiro I-F. 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 performing the further upgrade to ETCS ('European Train Control System') Baseline 3 set out in point 7.4.2.3 of the Annex to Regulation (EU) 2016/919.
- (3) After the submission of the request, Regulation (EU) 2016/919 has been repealed by Commission Implementing Regulation (EU) 2023/1695 ⁽³⁾. In substance, the requirement to install ETCS (Baseline 3) laid down in point 7.4.2.1 of the Annex to Regulation (EU) 2016/919 is currently laid down under point 7.4.2.1 and 7.4.2.4 of Annex I to Implementing Regulation (EU) 2023/1695. Therefore, the original request should be considered a request temporarily not to apply point 7.4.2.1 and 7.4.2.4 of Annex I to Implementing Regulation (EU) 2023/1695.
- (4) For the four new vehicles V300 Zefiro I-F, Trenitalia will seek an authorisation according to the type already authorised (NIE EU8020210113) and will extend its area of use from the Italian network to the French network. The four vehicles already operate in the Italian network with ETCS Baseline 2.

⁽¹⁾ OJ L 138, 26.5.2016, p. 44.

⁽²⁾ 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).

⁽³⁾ Commission Implementing Regulation (EU) 2023/1695 of 10 August 2023 on the technical specification for interoperability relating to the control-command and signalling subsystems of the rail system in the European Union and repealing Regulation (EU) 2016/919 (OJ L 222, 8.9.2023, p. 380).

- (5) For the purposes of extending their operation on the French national network, the V300 Zefiro I-F vehicles are equipped with an additional automatic train protection system ('ATP'): the bi-standard ERTMS/TVM sub-system in 'reduced national' configuration interfaced with the KVB train protection sub-system, together with ATESS 3G sub-system interfaced with the KVB. This ATP is the only one allowed for operating on lines of the French high-speed network that are not equipped with ERTMS.
- (6) Under point 7.4.2.1 and 7.4.2.4 of the Annex I to Implementing Regulation (EU) 2023/1695, the four vehicles concerned should be fitted with the bi-standard ERTMS/TVM compatible with ETCS Baseline 3.
- (7) However, this would oblige the operator Trenitalia and the supplier Bombardier – Hitachi to modify and retrofit the vehicles, thereby increasing the cost of the project to a point where its economic viability would be compromised, besides affecting the vehicles' availability for commercial exploitation on other lines. That would have an economic impact in the loss of profit due to unavailability of the trains and the additional maintenance costs, increased by the subsequent need of training for maintenance staff and lack of synergies between the first fleet of five vehicles fitted with ETCS Baseline 2 in cross-border service, and the new fleet of four vehicles fitted with Baseline 3.
- (8) The manufacturer of the four vehicles concerned, and their owner, Trenitalia S.p.A, have committed to an engineering and installation plan to update those vehicles with new ETCS Baseline 3 for the on-board equipment. According to the most recent time schedules supplied by the applicant, the update from ETCS Baseline 2 to ETCS Baseline 3 should begin in December 2026 and be completed by 31 August 2027. The ETCS of the other five Zefiro trains that compose the fleet will also be updated to Baseline 3 on the same dates.
- (9) The lack of a positive decision would imply a delay of 4 years in the availability of new trains capable of performing the same service, with the subsequent economic impact, the shift to more polluting means of transport as well as the lack of synergies between the five Zefiro trains in service and the vehicles which form the object of this request.
- (10) The analysis carried out by the Commission shows that the alternative specifications that would be applied to guarantee the safety and interoperability of the vehicles are sufficient.
- (11) Based on the arguments presented by the applicants and restated in recitals 7, 8 and 9, the conditions set out in Article 7(1) point (c) and Article 7(4) of Directive (EU) 2016/797 should be considered as fulfilled for the four vehicles concerned. Therefore, the request submitted by France for the non-application of points 7.4.2.1 and 7.4.2.4 of the Annex I to Implementing Regulation (EU) 2023/1695 to those vehicles until they are fitted with ETCS Baseline 3 by 31 August 2027 should be accepted.
- (12) In order to have an overview of the vehicle renewal planning and its progress, France should inform the Commission by 31 December of each year, to guarantee the timely development of the project
- (13) 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 of France, notified to the Commission on 11 May 2023, for the temporary non-application of points 7.4.2.1 and 7.4.2.4 of the Annex I to Implementing Regulation (EU) 2023/1695 for the four vehicles V300 Zefiro I-F identified with the numbers ERT1000 -23, ERT1000 -28, ERT1000-31 and ERT1000 -47 is accepted.

Article 2

France shall inform the Commission of the planning for and progress in upgrading the four vehicles referred to in Article 1 by 31 December of each year.

Article 3

This Decision applies within the geographic limits of the French railway network.

Article 4

This Decision is addressed to the French Republic.

It shall apply until 31 August 2027.

Done at Brussels, 17 January 2024.

For the Commission
Adina-Ioana VĂLEAN
Member of the Commission