



2024/761

5.3.2024

COMMISSION IMPLEMENTING DECISION (EU) 2024/761

of 1 March 2024

accepting a request submitted by Romania pursuant to Article 7(4) of Directive (EU) 2016/797 of the European Parliament and of the Council for the temporarily non-application of point 7.4.2.1 of the Annex to Commission Implementing Regulation (EU) 2023/1695 to twenty vehicles LEMA

(notified under document C(2024) 1258)

(Only the Romanian 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 31 August 2023, Romania submitted to the Commission a new request for the temporary non-application of point 7.4.2.1 of the Annex to Commission Regulation (EU) 2016/919 ⁽²⁾ (the 'new request'), which provides for certain new vehicles to be equipped with on-board European Train Control System ('ETCS') Baseline 3, to twenty newly manufactured LEMA 6 000 kW locomotives.
- (2) Romania had already submitted a first request to that effect on 6 January 2022. The Commission accepted it by Commission Implementing Decision (EU) 2022/1349 ⁽³⁾ and authorized the non-application of the relevant point until 31 December 2023. By that date, the vehicles concerned should have been upgraded to ETCS Baseline 3.
- (3) After the submission of the new request, Regulation (EU) 2016/919 was repealed by Commission Implementing Regulation (EU) 2023/1695 ⁽⁴⁾. 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 has been taken over in point 7.4.2.1 of Annex I to Implementation Regulation (EU) 2023/1695. Therefore, the request should be considered a request not to apply point 7.4.2.1 of Annex I to Implementation Regulation (EU) 2023/1695.
- (4) Point 7.4.2.1 of the Annex to Implementation Regulation (EU) 2023/1695 aims at facilitating the interoperability of the rolling stock in the European network by installing ETCS on-board. However, as already considered in Implementing Decision (EU) 2022/1349, while it was important to equip rail vehicles with ETCS, there is still considerable delays in Romania and some other Member States in the ERTMS roll-out.

⁽¹⁾ OJ L 138, 26.5.2016, p. 44, ELI: <http://data.europa.eu/eli/dir/2016/797/oj>.

⁽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, ELI: <http://data.europa.eu/eli/reg/2016/919/oj>).

⁽³⁾ Commission Implementing Decision (EU) 2022/1349 of 26 July 2022 accepting a request submitted by Romania to Directive (EU) 2016/797 of the European Parliament and of the Council for non-application of point 7.4.2.1 of the Annex to Regulation (EU) 2016/919 to twenty vehicles LEMA (OJ L 202, 2.8.2022, p. 56, ELI: http://data.europa.eu/eli/dec_impl/2022/1349/oj).

⁽⁴⁾ 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, ELI: http://data.europa.eu/eli/reg_impl/2023/1695/oj).

- (5) The fleet of the 20 LEMA 6 000 kW locomotives referred to in the request is intended to operate in the Romanian network, of which only 10 % is currently equipped with trackside ETCS. The Romanian national Class B system PZB remains necessary for operating on the Romanian network.
- (6) The manufacturing process of the signalling systems has been delayed. The signalling systems supplier informed Romania that its ETCS baseline 3 prototype would not be available in 2023, contrary to the original planning. Once the prototype is available, retrofitting the locomotives requires sufficient products to be made, the installation of the signalling systems, the update and validation of the technical documents and further onboard activities. Once retrofitting is completed, the new locomotive type and individual locomotives must be authorised to be placed into the market. Each of these activities will require several months.
- (7) It follows that the schedule for retrofitting the vehicles originally estimated by the manufacturer, which informed Implementing Decision (EU) 2022/1349, is no longer relevant and that a longer period of time is now needed for the 20 LEMA 6 000 kW locomotives to be upgraded and authorised. The longer delivery time, together with the delays in the trackside implementation of ETCS in the Romanian network prompted the new request.
- (8) In line with the reasoning of Implementing Decision (EU) 2022/1349, which remains valid under the current circumstances, the early installation of ETCS Baseline 3 in the 20 LEMA 6 000 kW locomotives would have a serious impact on the availability of the locomotives for operation on the network with a considerable negative economic impact that would compromise the economic viability of the project. As already recognised in Implementing Decision (EU) 2022/1349, a faster roll-out and the later retrofitting of the fleet from ETCS Baseline 2 to ETCS Baseline 3 would instead be appropriate.
- (9) Until they are retrofitted, the locomotives will operate using the class B system in the Romanian network as it is the single signalling system available while ERTMS is rolled out in its network.
- (10) Thirteen of the locomotives referred to in the request are already identified with numbers 91530480060-9, 91530480061-7, 91530480062-5, 91530480063-3, 91530480064-1, 91530480065-8, 91530480066-6, 91530480069-0, 91530480070-8, 91530480072-4, 91530480073-2, 91530480074-0 and 91530480075-7. The Romanian authorities should provide the identification numbers of the other 7 locomotives at a later stage, upon their registration.
- (11) The manufacturer of the vehicles has committed to an engineering and installation plan to upgrade the vehicles concerned with on-board ETCS Baseline 3. According to the most recent time schedules supplied, the upgrade to ETCS Baseline 3 of the 20 locomotives, is expected to be completed by 31 December 2026.
- (12) The authorisation of the locomotives, prior to the installation of the ETCS Baseline 3, will be valid only during the period of validity of this non-application decision.
- (13) While the reasoning of Implementing Decision (EU) 2022/1349 remains valid, it is necessary to allow more time for the upgrade and authorisation of the locomotives concerned.
- (14) Therefore, the Commission considers that the conditions laid down in Article 7(1)(c) and Article 7(4) of Directive (EU) 2016/797 are still satisfied as regards the 20 vehicles concerned by this new request. The new request submitted by Romania for the non-application of point 7.4.2.1 of the Annex to Implementation Regulation (EU) 2023/1695 to those vehicles until 31 December 2026 should therefore 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 submitted on 31 August 2023 to the Commission by Romania for the non-application until 31 December 2026 of Point 7.4.2.1 of the Annex to Implementation Regulation (EU) 2023/1695, regarding 20 locomotives LEMA 6 000kW, is accepted.

The first 13 locomotives referred to in the request are identified with numbers 91530480060-9, 91530480061-7, 91530480062-5, 91530480063-3, 91530480064-1, 91530480065-8, 91530480066-6, 91530480069-0, 91530480070-8, 91530480072-4, 91530480073-2, 91530480074-0 and 91530480075-7.

The Romanian authorities shall inform the Commission of the identification numbers of the remaining 7 LEMA 6 000 kW locomotives, once they are registered in the European vehicle register for the area of use Romania.

Article 2

Where the provisions of this Decision are applied to a vehicle authorisation of any of the 20 LEMA 6 000 kW locomotives referred to in Article 1, that vehicle authorisation shall be valid until 31 December 2026.

Article 3

This Decision is addressed to Romania.

It shall apply until 31 December 2026.

Done at Brussels, 1 March 2024.

For the Commission
Adina-Ioana VĂLEAN
Member of the Commission