

Notification

PL-T-8752 and PL-T-8754

for THE EUROPEAN COMMISSION

regarding

List of President of Rail Transportation Office on national technical specifications and standardisation documents which provide conformity with essential requirements of rail system interoperability

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

On 19 January 2017 PL MS introduced in Notif-IT the notification of the existing Governmental Act “List of President of Rail Transportation Office on national technical specifications and standardisation documents which provide conformity with essential requirements of rail system interoperability” encoded with the number PL-T-8754 and PL-T-8752.

The scope of the sub mentioned Act is related to the following sub-systems: Control Command Signalling Track Side [CCSTS], Energy [ENE] and Infrastructure [INF].

2. Legal Background

Notification of existing national rules according to Art. 14 of IOP DIR.

3. Analysis

The analysis of the sub mentioned notification is done according to the set of questions kept in Notif-IT.

(When necessary, the corrections or adjustments based on the new IOP DIR are added in the answer).

A – Is the notified draft NR admissible according to the NR definition in Art. 3(8) and process requirements in Art. 8(1) and 8(3)? – NO

The definition of NR is in Art. 3(8) of Safety DIR (2016/798/EC). However this notification is not referring to a NR in the field of safety (Art. 8(1) and 8(3) of Safety DIR) but the NR as defined in Art. 2(30) of IOP DIR, and referred to in Art. 13 of IOP DIR.

The legal Act under evaluation contains a series of existing NRs in different sub-systems (CCS, INF and ENE); therefore, the notification is done according to Art. 14 of IOP DIR.

However the legal framework which is linked in the Polish Act (“List of President ...”) has to be reviewed according to the new IOP DIR, the TSIs in force and the criteria for NR for fixed installation (Annex III).

For this reason, the rule is NOT admissible.

Attached to the present evaluation report are more detailed comments concerning the Polish legal framework mentioned above.

Question 1: Is the rule a NR according to Art. 3(8) – contains railway safety or technical requirements other than those laid down by Union or international rules? – YES

See answer above (p. A).

Question 2: Is the rule a NR according to Art. 3(8) – is or will be imposed at MS level? – YES

The Polish Act (“List of President ...”) refers to a legal framework which is already in force in Poland. See also answer above (p. A).

Question 3: Is the rule a NR according to Art. 3(8) – Is applicable to RUs, IMs or third parties? – YES

The rule is applicable to RUs, IMs and 3rd parties. See also answer above (p. A).

Question 4: Information requirements for rules notified according to Art. 8(4) or 8(7) – area of application? - YES

The present notification is about the NRs according to Art. 13 and 14 of IOP DIR and it is related to the following sub-systems: CCSTS, ENE and INF.

Question 5: Information requirements for rules notified according to Art. 8(4) or 8(7) – principal content of rule? – YES

NB. Is it clear that notified requirements are other than those laid down by Union or international rules?

The notified document is a list of rules, not the rules themselves. The legal framework (rules) which is linked in the Polish Act (“List of President ...”) has to be reviewed according to the new IOP DIR, the TSIs in force and the criteria for NR for fixed installation (Annex III).

Question 6: Information requirements for rules notified according to Art. 8(4) or 8(7) – form of legislation and legal reference? – YES

The legal framework (rules) which is linked in the Polish Act (“List of President ...”) is publicly available. See also answer above (p. A).

Question 7: Information requirements for rules notified according to Art. 8(4) or 8(7) – body responsible for publishing rule? – YES

The MS and the NSA in Poland. See also answer above (p. A).

Question 8: Rule version, new or amendment to existing rule: are details of existing rule entered? – NO

The notification concerns the existing rules that are already in force.

Question 9: Is the rule correctly classified – are the selected sub-categories according to Annex II? – NO

Not relevant. Annex II in Safety DIR defines notification of National Safety Rules. The present notification is done according to Art. 14 of IOP DIR.

Question 10: Text of rules uploaded? – NO

The text of the legal framework (rules) linked in the Polish Act (“List of President ...”) is not completely present.

Question 11: Is national consultation carried out as declared by MS? – NO

Not relevant.

B – Is the justification for introducing the draft NR sufficient for the purpose of examination according to Art. 25(1) of Agency Regulation? – NO

The notification concerns the existing rules, not draft new rules. After several meetings with Polish NSA, it was agreed to postpone the deadline for the evaluation to September 2017.

C – Is there room for MS to adopt NR according to EU law? – YES

As already mentioned the notification refers to a list of already existing Polish legal framework (rules).

D – Can the notified rule enter into force and/or be applied? – NO

See answer C above. The Agency considers the rule as not acceptable. See also answers to questions in section A.

Question 1: Does the draft NR enable the essential requirements for railway interoperability to be fulfilled? – YES

The rule is already in force.

Question 2: Does the draft NR enable the CSMs to be respected? – NO

Not applicable.

Question 3: Does the draft NR enable the CSTs to be achieved? – NO

Not applicable.

Question 4: Does the draft NR enable the TSIs in force to be respected? – YES

See also answers in section A.

Question 5: Does the draft NR ensure that there is no arbitrary discrimination? – NO

Not possible to assess. The notification refers to a list of already existing Polish legal framework (rules).

Question 6: Does the draft NR ensure that there is no disguised restriction on rail transport operations between Member States? – NO

Not possible to assess. The notification refers to a list of already existing Polish legal framework (rules).

Further details of examination:

Please refer to the detailed reports issued by the Agency in the Annex.

Comments on the process:

No comment.

ANNEX 1



podsystem
infrastruktura subsy



NTR_ENE_Pol.docx