EUROPEAN UNION AGENCY FOR RAILWAYS

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Summary of appeal findings

Published on	*8 October 2021*
Case	*EACLI EU-ERABA-2021-002*
Appellant	*Siemens Mobility GmbH*
Appeal received on	*23 June 2021*
Subject matter	*Vehicle authorisation*
Keywords	*ETCS Baseline 2, conformity to type authorisation, TSI CCS, upgrading of an existing vehicle, transition period, ERTMS migration strategy*
Contested Agency Decision	*V-20210120-009*
Language of the case	*English*
Background and remedy sought by the appellant	*Siemens Mobility GmbH (Appellant) applied to European Union Agency for Railways (Agency) for a conformity-to-type authorisation on 20 January 2021 with application number V-20210120-009. The application concerned an existing vehicle equipped with ETCS Baseline 2 that was upgraded from version E1.03 to E1.11 in order to be authorised to run also in Belgium. On 25 February 2021 the Agency issued a negative decision and refused to grant authorisation. On 9 March 2021, the Appellant applied to Agency for a review of this decision. On 3 May 2021, Agency upheld the decision in its entirety.* *Siemens Mobility GmbH, in an appeal received by the Board of Appeal on 23 June 2021, requests that the authorisation be issued and that the clarification note ERA1219-119 be revised.*
Summary of findings and conclusions	*The Board considers that:* - *it is not acceptable to conclude that the term 'new vehicles' in provision 7.4.2.3 of the TSI CCS*

	includes the 'vehicles authorised in conformity to a type" as argued by ERA - *the CCS TSI does not contain a provision from which the appellant could imply that the type 11-057-0016-3-001-002 is invalid for its C2T application* - *the notes to a table inserted in annex A of TSI CCS cannot be read in isolation. It is chapter 7 (and not chapter 4) of the TSI which regulates how the TSI must be applied in case of existing vehicles (maintenance, renewal and upgrading)* - *if the type chosen by the applicant is still valid and if the locomotive has to be in conformity with the type chosen by the applicant, then table A2.1 is applicable (ETCS baseline 2)* *The Board concludes that:* - *the grounds for the appeal are founded* - *the locomotive subject to the present appeal should be authorised in the context of a conformity to type authorisation and according to the type chosen by the appellant* *The Board suggests that:* - *the ERTMS migration strategy should be clarified as to existing locomotives equipped with BL2* - *the TSI CCS application guide and the Clarification Note might be updated accordingly.*
Further information	*Full text* Board of Appeal | ERA (europa.eu)