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## Clarification note

### *Applicability of clause 7.1.4 of LOC&PAS TSI to special vehicles such as On Track Machines*

	<i>Drafted by</i>	<i>Validated by</i>	<i>Approved by</i>
<i>Name</i>	N. BOUSSOUF E. DELRIO	H. DELSOIR O. PIRON	T. BREYNE
<i>Position</i>	Project Officer	Team Leader	Head of Unit
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<i>Signature</i>	 	 	

#### *Document History*

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1.0	03/09/2020	First edition

*The purpose of this document is to provide applicants and other external stakeholders of the vehicle authorisation business with information in regards to the specific topic referenced in the title. The clarifications contained in this document may be integrated in the next revision of the guidelines for the practical arrangements for the vehicle authorisation process, without prejudice of the formal process foreseen for updating the guideline.*

*The present document is a non-legally binding guidance of the European Railway Agency. It 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. Description of the issue

The clause 7.1.4 of Annex I of the Regulation (EU) 1302/2014, as amended by Regulations (EU) 2019/776 and 2020/387 (hereinafter LOC&PAS TSI, [link](#)) specifies the rules for the extension of the area of use for existing rolling stock having an authorisation in accordance with Directive 2008/57/EC or in operation before 19 July 2010.

Note. Similar clauses are in the TSI WAG (7.2.2.4) and TSI CCS (7.4.2.4).

On Track Machines (hereinafter OTMs) are in the scope of LOC&PAS TSI. However, clause 7.1.1.3 of LOC&PAS TSI allows OTMs to not apply the TSIs and to comply only with national rules instead. It is not clear however if this possibility to not apply the LOC&PAS TSI covers the whole TSI (including clause 7.1.4) or is limited to the technical requirements in chapters 4 to 6.

## 2. Line to take

Special vehicles such as OTMs as defined in Sections 2.2 and 2.3 of LOC&PAS TSI **are in the scope of the LOC&PAS TSI when they are in transport (running) configuration, self-propelled or hauled.**

As allowed by clause 7.1.1.3 of LOC&PAS TSI, the application of the technical requirements of the LOC&PAS TSI (chapters 4, 5 and 6) is not mandatory. When an applicant decides not to apply the TSI, the OTM is authorised in accordance with Article 21 of Directive (EU) 2016/797 against **national rules notified as regards the basic parameters of the TSIs.**

In case of extension of area of use of an existing OTM having an authorization in accordance with Directive 2008/57/EC or in operation before 19 July 2010, the basic parameters to be checked are limited to the ones defined in clause 7.1.4 of LOC&PAS TSI.

When an applicant has decided to apply national rules notified instead of the LOC&PAS TSI, the applicant shall provide an 'EC declaration of verification' accompanied by technical files giving evidence of compliance with the national rules notified for each basic parameters referred to in:

- › column 1 of Tables 17a and 17b of LOC&PAS TSI and
- › the following clauses of LOC&PAS TSI:
  - 4.2.4.2.2, 4.2.5.5.8, 4.2.5.5.9, 4.2.6.2.3, 4.2.6.2.4, 4.2.6.2.5, 4.2.8.2.7, 4.2.8.2.9.8 (when running through phase or system separation sections is managed automatically), 4.2.9.3.1, 4.2.9.6, 4.2.12 and 4.2.12.6
  - 4.2.5.3 in Italy
  - 4.2.5.3.5 and 4.2.9.2.1 in Germany

through one or a combination of the following :

- › compliance with national rules notified against the basic parameters referred above (pursuant to clause 7.1.4(2)(a) of LOC&PAS TSI);
- › evidence that the requirements for technical compatibility with the network of the extended area of use are equivalent to the requirements for technical compatibility with the network for which the rolling stock is already authorised or in operation. Such evidence shall be provided by the applicant and may be based on the information of the register of railway infrastructure (RINF) (pursuant to clause 7.1.4(2)(d) of LOC&PAS TSI).

In addition to the requirements mentioned referred to in clause 7.1.4(2) of LOC&PAS TSI and if not already covered by the previous paragraph, the 'EC declaration of verification' and the accompanying technical file shall also cover compliance with the national rules referred to in points (a), (c) and (d) of Article 13(2) of Directive (EU) 2016/797 as notified in accordance with Article 14 of that Directive (pursuant to clause 7.1.4(4)(b) of LOC&PAS TSI).

The following table summarizes the applicability or not of clause 7.1.4 to OTMs compliant only with national rules:

Clause	Applicability
7.1.4(1)	Applicable
7.1.4(2) (1 <sup>st</sup> paragraph)	Applicable part: the applicant shall provide an 'EC declaration of verification' accompanied by technical files giving evidence of compliance with the requirements set out in this TSI, or with provisions having equivalent effect, for each basic parameter referred to in column 1 of Tables 17a and 17b and with the clauses mentioned in 7.1.4(2)
7.1.4(2)(a),(b), (c)	Not applicable as OTMs comply with National rules assessed by DeBo (notified national rules are not alternative specifications)
7.1.4(2) (d)	Applicable
7.1.4(3) – alternative specification 7.1.4(2)(c)	Not applicable as OTMs comply with National rules assessed by DeBo (notified national rules are not alternative specifications)
7.1.4(3) - equivalence of requirements for technical compatibility with the network 7.1.4(2)(d)	Applicable
7.1.4(4)(a)	Not applicable as OTMs comply with National rules assessed by DeBo
7.1.4(4)(b)	Applicable
7.1.4(5) - equivalence of requirements for technical compatibility with the network 7.1.4(2)(d)	Applicable
7.1.4(6)	Not applicable as OTMs comply with National rules assessed by DeBo
7.1.4(7)	Not applicable as OTMs are not concerned by RIC

### 3. Legal background

#### a) Regulation (EU) No 1302/2014 (LOC&PAS TSI)

##### › 2.2. Definitions related to rolling stock

*"2.2.2 (C). Special vehicles, such as on-track machines.*

*On track Machines (OTMs) are vehicles specially designed for construction and maintenance of the track and infrastructure. OTMs are used in different modes: working mode, transport mode as self propelling vehicle, transport mode as a hauled vehicle.*

*Infrastructure inspection vehicles are utilised to monitor the condition of the infrastructure. They are operated in the same way as freight or passenger trains, with no distinction between transport and working modes."*

##### › 2.3. Rolling stock in the scope of this TSI

*"2.3.1. Types of rolling stock*

*(C) Special vehicles, such as on-track machines*

*This type of rolling stock is in the scope of the TSI only when:*

*(1) It is running on its own rail wheels; and*

*(2) It is designed and intended to be detected by a track based train detection system for traffic management; and*

*(3) In case of OTMs, it is in transport (running) configuration, self-propelled or hauled.*

*Exclusion from the scope of this TSI: In case of OTMs, working configuration is outside the scope of this TSI."*

##### › 7.1.1.3. Application to special vehicles such as on-track machines

*“(1) The application of this TSI to mobile railway infrastructure construction and maintenance equipment (as defined in Sections 2.2 and 2.3) is not mandatory*

*[...]*

*(3) In case the applicant chooses not to apply this TSI, the mobile railway infrastructure construction and maintenance equipment may be authorised in accordance with Article 21 of Directive (EU) 2016/797 against national rules as regards the basic parameters of this TSI“*

- › 7.1.4. Rules for the extension of the area of use for existing rolling stock having an authorisation in accordance with Directive 2008/57/EC or in operation before 19 July 2010

*“(1) In the absence of full conformity with this TSI, point 2 applies to rolling stock that fulfils the following conditions when requesting the extension of its area of use in accordance with Article 21(13) of Directive (EU) 2016/797:*

*(a) it has been authorised in accordance with Directive 2008/57/EC or put in operation before 19 July 2010;*

*(b) it is registered with ‘Valid’ registration code ‘00’, in the National Vehicle Register in accordance with Commission Decision 2007/756/EC (1) or in the European Vehicle Register in accordance with Commission Implementing Decision (EU) 2018/1614 (2) and maintained in a safe state of running in accordance with Commission Implementing Regulation (EU) 2019/779 (3).*

The following provisions for extension of area of use apply also in combination with a new authorisation as defined in point (a) of Article 14(3) of Regulation (EU) 2018/545.

*(2) Authorisation for an extended area of use of the rolling stock referred to in point 1 shall be based on the existing authorisation, if any, and on the technical compatibility between the rolling stock and the network in accordance with point (d) of Article 21(3) of Directive (EU) 2016/797 and compliance with the Basic Design Characteristics of Table 17a and 17b of this TSI, taking into account any restrictions or limitations. The applicant shall provide an ‘EC declaration of verification’ accompanied by technical files giving evidence of compliance with the requirements set out in this TSI, or with provisions having equivalent effect, for each basic parameter referred to in column 1 of Tables 17a and 17b and with the following clauses of this TSI:*

- 4.2.4.2.2, 4.2.5.5.8, 4.2.5.5.9, 4.2.6.2.3, 4.2.6.2.4, 4.2.6.2.5, 4.2.8.2.7, 4.2.8.2.9.8 (when running through phase or system separation sections is managed automatically), 4.2.9.3.1, 4.2.9.6, 4.2.12 and 4.2.12.6*
- 4.2.5.3 in Italy*
- 4.2.5.3.5 and 4.2.9.2.1 in Germany*

*through one or a combination of the following:*

*(a) compliance with requirements set out in this TSI as referred above;*

*(b) compliance with corresponding requirements set out in a previous TSI as referred above;*

*(c) compliance with alternative specifications deemed to have equivalent effect to the relevant requirements set out in this TSI as referred above;*

*(d) evidence that the requirements for technical compatibility with the network of the extended area of use are equivalent to the requirements for technical compatibility with the network for which the rolling stock is already authorised or in operation. Such evidence shall be provided by the applicant and may be based on the information of the register of railway infrastructure (RINF).*

*(3) The equivalent effect of alternative specifications to the requirements of this TSI (point 2(c)) and the equivalence of requirements for technical compatibility with the network (point 2(d)) shall be justified and documented by the applicant by applying the risk management process set out in*

*Annex I of Regulation (EU) No 402/2013. The justification has to be assessed and confirmed by an assessment body (CSM RA).*

*(4) In addition to the requirements mentioned referred to in point 2 and where applicable, the applicant shall provide an 'EC declaration of verification' accompanied by technical files giving evidence of compliance with the following:*

*(a) specific cases relating to any part of the extended area of use, listed in this TSI, the TSI Noise (Regulation (EU) No 1304/2014), the TSI PRM (Regulation (EU) No 1300/2014) and CCS TSI (Regulation (EU) 2016/919);*

*(b) the national rules referred to in points (a), (c) and (d) of Article 13(2) of Directive (EU) 2016/797 as notified in accordance with Article 14 of that Directive.*

*(5) The authorising entity shall make publicly available through the Agency website details of the alternative specifications referred to in point 2(c) and of the requirements for technical compatibility with the network referred to in point 2(d) on the basis of which it granted authorisations for the extended area of use.*

*(6) Where an authorised vehicle benefited from non-application of TSIs or part of them pursuant to Article 9 of Directive 2008/57/EC, the applicant shall seek derogation(s) in the Member States of the extended area of use in accordance to Article 7 of Directive (EU) 2016/797.*

*(7) In accordance with Article 54(2) of Directive (EU) 2016/797, coaches used under Regolamento Internazionale Carrozze (RIC) shall be deemed authorised in accordance with the conditions under which they were used, including the area of use where they are operated. Following a change which requires a new authorisation for placing on the market in accordance with Article 21(12) of Directive (EU) 2016/797, coaches accepted under the latest RIC agreement shall conserve the area of use in which they were operating without further checks on the unchanged parts."*

**b) Directive (EU) 2016/797**

- › Article 21 Vehicle authorisation for placing on the market

*"[...]*

*(13). Where the applicant wishes to extend the area of use of a vehicle which has already been authorised, it shall supplement the file with the relevant documents referred to in paragraph 3 concerning the additional area of use. The applicant shall submit the file to the Agency, which shall, after following the procedures laid down in paragraphs 4 to 7, issue an updated authorisation covering the extended area of use.*

*If the applicant has received a vehicle authorisation in accordance with paragraph 8 and wishes to extend the area of use within that Member State, it shall supplement the file with the relevant documents referred to in paragraph 3 concerning the additional area of use. It shall submit the file to the national safety authority which shall, after following the procedures laid down in paragraph 8, issue an updated authorisation covering the extended area of use.*

*[...]"*