COMMISSION IMPLEMENTING DECISION (EU) 2022/856

of 30 May 2022

accepting a request submitted by Ireland pursuant to Article 7(4) of Directive (EU) 2016/797 of the European Parliament and of the Council not to apply Commission Regulation (EU) No 1302/2014 and Commission Regulation (EU) No 1303/2014 to IÉ-RU Class 22000 ICDMU – 'B2' intermediate cars

(notified under document C(2022) 3365)

(Only the English and the Irish texts are 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 4 February 2022, Ireland submitted to the Commission, in accordance with Article 7(4) of Directive (EU) 2016/797, a request for the non-application of the technical specification for interoperability ('TSI') concerning rolling stock – locomotives and passenger rolling stock (LOC&PAS TSI) set out in Commission Regulation (EU) No 1302/2014 ([2]) and the safety in railway tunnels (SRT TSI) set out in Commission Regulation (EU) No 1303/2014 ([3]) to a number of Class 22000 ICDMU – B2 intermediate cars, to be operated by Iarnród Éireann-Railway Undertaking ('IÉ-RU'). That request was submitted on the basis of Article 7(1), point (e) of Directive (EU) 2016/797, which covers rail networks separated or isolated by the sea or separated as a result of a special geographical conditions from the rail network of the rest of the Union.

(2) In order to meet the rapidly growing passenger demand for the rail services operated by the current trainsets, IÉ-RU plans to obtain additional capacity by extending a number of the existing fixed formation trainsets by one or two cars. To that end, IÉ-RU has a framework agreement with the manufacturer Mitsui for the supply of the additional intermediate cars ('B2' intermediate cars) that are required to extend the existing trainsets (fixed 'B1' formations).

(3) According to that agreement, Mitsui is to supply 41 'B2' intermediate cars by 2022, with an option for the supply of a further 60 cars that can be exercised until 31 December 2026, for a total of 101 cars. The 'B2' intermediate cars are to be based on the design of the existing 'B1' car, which is to be adapted to include the engineering changes necessary for: facilitating operational capacity requirements; fulfilling legal obligations concerning exhaust emissions and providing suitable alternatives for obsolete or unavailable equipment and material.

(4) During the 94th meeting of the Railway Interoperability and Safety Committee, the Irish representatives informed their counterparts of the details of the non-application request submitted to the Commission.

(5) The 'B2' intermediate cars are to be included in an existing non-TSI compliant fixed formation trainsets. The application of the requirements of the TSIs would create compatibility issues between TSI compliant and non-compliant vehicles, leading to disproportionate technical difficulties and complexities of production.

([1]) OJ L 138, 26.5.2016, p. 44.

([2]) Commission Regulation (EU) No 1302/2014 of 18 November 2014 concerning a technical specification for interoperability relating to the 'rolling stock – locomotives and passenger rolling stock' subsystem of the rail system in the European Union (OJ L 356, 12.12.2014, p. 228).

([3]) Commission Regulation (EU) No 1303/2014 of 18 November 2014 concerning the technical specification for interoperability relating to 'safety in railway tunnels' of the rail system of the European Union (OJ L 356, 12.12.2014, p. 394).

(6) Moreover, the economic equilibrium of the project would be jeopardised since the application of the TSIs to 'B2' intermediate cars would cause a delay and additional cost for placing those cars on the market. The entire vehicle design would require re-evaluation and re-assessment of the design parameters, as a result of which it is most likely that significant modification and redesign of the vehicles would be required to achieve compliance with the TSIs, for which a non-application request had been introduced;

(7) The non-application of the TSIs would be limited to the extent necessary for the safe integration and compatibility of the 'B2' intermediate cars with the existing fixed formation trainsets. The proposed alternative provisions the cars will have to comply with satisfy the relevant essential requirements and compensate each non-application of the TSIs.

(8) As a mitigation measure, Ireland has proposed that the cars have the same design as the existing vehicles. The cars concerned were designed in accordance with the relevant Railway Group Standards requirements established by the British Rail Safety and Standards Board (RSSB), CEN-Cenelec standards and Irish national standards. Their design only deviates from the requirements of those standards and codes only where necessary to ensure the safe integration and compatibility of the vehicles with Ireland's rail network in its current status.

(9) The 'B2' intermediate cars and the fixed formation trainsets, in which they would be included, are planned to be used in the geographic area covering all the railway network of Ireland, that uses a different gauge of 1 600 mm, with no possibility of viable commercial reutilisation in other areas of the Single European Railway Area.

(10) The Irish network is connected with the Northern Ireland network. The United Kingdom of Great Britain and Northern Ireland withdrew from the European Union on the 31 January 2020. Therefore, Northern Ireland has become a neighbouring third country to the European Union. Consequently, Ireland ceases to share a land border with a fellow Member State and Ireland's rail network has become isolated from the rest of the European Union's rail network.

(11) The request submitted by Ireland provides sufficient guarantees that the alternative provisions to be applied, as referred to in recitals 7 and 8, will ensure safe operation of these cars on the Irish rail network.

(12) Therefore, the Commission considers that the conditions set out in Article 7(1), point (e) and Article 7(4) of Directive (EU) 2016/797 are satisfied.

HAS ADOPTED THIS DECISION:

Article 1

The request of Ireland not to apply Regulation (EU) No 1302/2014 and Regulation (EU) No 1303/2014 to 101 'B2' intermediate cars that will operate in the Irish network, is accepted by the Commission.

The Irish authorities shall inform the Commission of the identification numbers of the new cars and their respective final fixed formations, once those cars are operational in the Irish network.

Article 2

This Decision is addressed to Ireland.

Done at Brussels, 30 May 2022.

For the Commission
Adina VĂLEAN
Member of the Commission