COMMISSION IMPLEMENTING DECISION (EU) 2024/378

of 25 January 2024

accepting a request submitted by Spain pursuant to Article 7(4) of Directive (EU) 2016/797 of the European Parliament and of the Council to not apply Commission Regulation (EU) 2016/919, to 58 vehicles Stadler E6000

(notified under document C(2024) 388)

(Only the Spanish 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 28 June 2023 Spain submitted to the Commission, in accordance with Article 7(4) of Directive (EU) 2016/797, a request not to apply temporarily point 7.4.2.1(1) of Commission Regulation (EU) 2016/919 ([2]) to 58 vehicles. This point requires the installation of ETCS baseline 3 on board of any new vehicle

(2) The request concerns 58 new Stadler E6000 vehicles purchased by the following railway undertakings: Renfe Mercancias (12 locomotives), Alpha Trains (30 locomotives) and Medway (16 locomotives), respectively listed in Annex I.

(3) The request was submitted on the basis of point (c) of Article 7(1) of Directive (EU) 2016/797 on the lack of economic viability for putting in service before 31 December 2028 vehicles fully equipped with ETCS (Baseline3) as set out in point 7.4.2.1 of Regulation (EU) 2016/919.

(4) After the submission of the request, Regulation (EU) 2016/919 has been repealed by Commission Implementing Regulation (EU) 2023/1695 ([3]). 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 Implementing Regulation (EU) 2023/1695. Therefore, the original request should be considered a request temporarily not to apply point 7.4.2.1 of Annex I to Implementing Regulation (EU) 2023/1695.

(5) The 58 new Stadler E6000 vehicles will operate in the Spanish network, covering the line L084/984, in which the mountainous Puerto de Pajares section is located. These new locomotives have high traction capacity to tow long trains, capacity to function under different electric tensions (3kV/25 kV) necessary because of the network conditions, and the possibility to configure with both 1668 (the Iberian) and 1435 (EU) track gauges.

(6) According to point 7.4.2.2 of the Annex to Implementing Regulation (EU) 2023/1695, existing vehicles should be equipped with ETCS. However, Stadler E6000 vehicles do not have ETCS/ERTMS equpiment installed on board. Therefore, during process of vehicle type authorization (number 1-075-0005-8-001-001), the European Railway Agency set specific restrictions of use. Based on those restrictions, at the present time those locomotives cannot be operated on lines equipped with class A (ETCS/ERTMS) signalling system, in the corridors defined in Annex I of Commission Implementing Regulation (EU) 2017/6 ([4]) and in the lines ensuring the connections to the main European ports, marshalling yards, freight terminals and freight transport areas defined in Article 2.1 of Implementing Regulation (EU) 2017/6.

([1]) OJ L 138, 26.5.2016, p. 44.
([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).
([3]) 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).
([4]) Commission Implementing Regulation (EU) 2017/6 of 5 January 2017 on the European Rail Traffic Management System European deployment plan (OJ L 3, 6.1.2017, p. 6).

(7) In the Spanish network of the Iberian gauge mostly dedicated to freight very few strecthes are currently equipped with ERTMS. Among those, the recently constructed Puerto de Pajares section of double track line (L084/984) consitutes an ERTMS 'isle' of 50 km equipped with ERTMS Level 2 (Baseline 2.3.0-D) as well as Class B system ASFA. Freight trains are now expected to use that bypass, which which ensures significative savings in energy consumption, shorter distance, less negative environmental impact, and operations with higher speeds and more capacity, in comparison to the previous old single line (L130).

(8) Because of the absence of the relevant ETCS/ERTMS equipment on board, the Stadler E6000 vehicles object of this request cannot currently operate on that line. Retrofitting those vehicles to install the ERTMS on board, would compromise the viability of the project due to the additional costs related to the expected delays of several months in the entry in operation and the lack of availability of the locomotives. Also, at this stage retrofitting would bring limited benefits because of the limited length of the track where ERTMS can be used and the additional complexity and costs of having two onboard signalling systems in use. The Spanish national implementation plan to develop ERTMS foresees the installation of ERTMS Level 2 (Baseline 3) by 2030 in the sections adjacent to the 50 km of the Puerto de Pajares section (L084/984).

(9) The manufacturer of the vehicles concerned and their owners have committed to an engineering and installation plan to retrofit the 58 vehicles with ETCS level 2 (Baseline 3) for the on-board equipment, in order to align with trackside ERTMS Level 2 roll-out. The most recent planning is reflected in Annex I and confirms delivery at the latest by 31 December 2025 for the vehicles owned by Renfe Mercancias, and by 31 December 2028 for the vehicles owned by Alpha Trains and Medway.

(10) The analysis carried out by the Commission confirms that the alternative specifications, use of class B system Digital Asfa, applied until the retrofitting takes place guarantee safety and interoperability of the vehicles on that line.

(11) Based on the above, the conditions set out in Article 7(1)(c) and Article 7(4) of Directive (EU) 2016/797 should be considered as fulfilled for the 58 vehicles concerned. Therefore, the request submitted by Spain to not apply to those vehicles, Regulation (EU) 2016/919, while mitigating the non-application of that latter provision by fitting the whole 58 vehicles with ECTS Level 2 Baseline 3 by 31 December 2028, should be accepted.

(12) 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 of Spain to not apply Regulation (EU) 2016/919 to 58 vehicles E6000 of the company Stadler is accepted, as set out in the Annex.

Article 2

Spain shall inform the Commission of the planning for and progress in upgrading the vehicles by 31 December of each year. Spain shall also communicate to the Commission the reference numbers of the vehicles listed in the Annex when they become available.

Article 3

This Decision shall apply within the geographic limits of the line L084/984 of the Spanish railway network.

Article 4

This Decision is addressed to the Kingdom of Spain.

It shall apply until 31 December 2028.

Done at Brussels, 25 January 2024.

For the Commission
Adina-Ioana VĂLEAN
Member of the Commission

ANNEX

List of vehicles included in the Decision and the expected date for those vehicles to be retrofitted to European Rail Traffic Management System (ERTMS) on board.

Owner	Railway undertaking that will use the vehicles	Total number of vehicles	Reference number of the authorised vehicles	Foreseen reference number of the vehicles in process of authorisation	Foreseen date to install ETCS L2
RENFE MERCANCÍAS	RENFE MERCANCÍAS	12	91716-256-101-8 91716-256-102-6 91716-256-103-4 91716-256-104-2 91716-256-105-9 91716-256-106-7 91716-256-107-5 91716-256-108-3 91716-256-109-1 91716-256-110-9	91716-256-111-7 91716-256-112-5	31 December 2025
ALPHA TRAINS	CAPTRAIN	30	91716-256-001-0 91716-256-002-8 91716-256-003-6 91716-256-006-9 91716-256-007-7 91716-256-008-5 91716-256-013-5 91716-256-014-3		30 June 2028
	CONTINENTAL RAIL		91716-256-004-4 91716-256-005-1 91716-256-009-3 91716-256-010-1		30 June 2028
	MEDWAY		91716-256-011-9 91716-256-012-7 91716-256-015-0 91716-256-016-8 91716-256-017-6		30 June 2028
	Not indicated		reference numbers to be provided	reference numbers to be provided	30 June 2028
MEDWAY	MEDWAY	16	reference numbers to be provided	reference number to be provided	30 June 2028