DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2023/319

of 9 February 2023

accepting a request submitted by the Italian Republic pursuant to Directive (EU) 2016/797 of the European Parliament and of the Council for non-application of point 7.4.2.3, paragraph 3(b), of the Annex to Commission Regulation (EU) 2016/919 for fifteen vehicles V250 Italia/ETR700

(notified under document C(2023) 875)

(Only the Italian version 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 29 June 2022, Italy submitted to the Commission a request for temporary non-application of point 7.4.2.3, paragraph 3(b), of the Annex to Commission Regulation (EU) 2016/919 ([2]), which requires the installation of the European Train Control System (ETCS) Baseline 3 after 1 July 2023 for vehicle types authorised before 1 January 2019. This request was submitted on the basis of Article 7(1), point (c), of Directive (EU) 2016/797, which provides for the possibility of non-application due to the risk to compromise the economic viability of the project. The request for temporary non-application concerns fifteen new vehicles V250 Italia/ETR700 with identification numbers 4810, 4804, 4814, 4815, 4881, 4812, 4813, 4811, 4806, 4883, 4816, 4809, 4802, 4801, and 4807, supplied by AnsaldoBreda S.p.A. Those fifteen vehicles belong to a fleet of seventeen vehicles V250 Italia / ETR700 owned by Trenitalia.

(2) Point 7.4.2.3 of the Annex to Regulation (EU) 2016/919 establishes a transition phase to facilitate the transition from ETCS Baseline 2 toward ETCS Baseline 3. It allows the installation of ETCS Baseline 2 until 31 December 2020 regarding vehicles included in projects or contracts which started before the date of application of the technical specifications for interoperability laid down in Regulation (EU) 2016/919. If the option for delaying Baseline 3 is used, the project is to ensure compliance with set specifications #2 or #3 listed in Table A2 of Annex A to Regulation (EU) 2016/919 within a period of time not exceeding 1 July 2023.

(3) The fifteen V250 vehicles referred to in the request were ordered on 4 August 2017 (contract number 3807) by Trenitalia as part of a seventeen-vehicles fleet of V250 to be delivered between May 2019 and the end of 2020, that is by the final date set in point 7.4.2.3, paragraph 3(a) of the Annex to Regulation (EU) 2016/919. Those fifteen vehicles installed ETCS Baseline 2 and were authorised in conformity to a type authorisation before 31 December 2020.

(4) The migration of the fleet from Baseline 2 to Baseline 3 was initially scheduled for mid-2023 in line with the regular maintenance and operation of the vehicles within the fleet. However, the COVID-19 pandemic had a detrimental effect on the scheduled maintenance process of the vehicles concerned. As a result, the planning of the maintenance process of those vehicles needed to be rescheduled beyond 1 July 2023.

([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).

(5) If the request for non-application of point 7.4.2.3, paragraph 3(b), of the Annex to Regulation (EU) 2016/919 were not accepted, the operator would be obliged to install ETCS Baseline 3 in the fifteen vehicles, temporarily retiring them from service beyond the normal scheduled maintenance. That would have an economic impact in the missing income due to the inability to provide the scheduled commercial service and due to higher costs of an upgrade operation outside of the normal maintenance activity. It would also have a negative socio-economic impact on Trenitalia customers due to the disruption of the service caused by the maintenance activity outside of the planned schedule.

(6) The manufacturer of the fifteen vehicles, AnsaldoBreda, and their owner, Trenitalia, have committed to an engineering and installation plan to upgrade those vehicles and the remaining fleet with on-board equipment of the new ETCS Baseline 3. According to the most recent planning forecast supplied by them, the upgrade to ETCS Baseline 3 should be completed by 31 December 2025.

(7) The delay in the migration will not affect interoperability, as vehicles are already equiped with ETCS Baseline 2. ETCS trackside is set at Baseline 2 and will gradually migrate to Baseline 3 until 2026, according to Italy's ERTMS national implementation plan.

(8) For those reasons, the conditions laid down in Article 7(1), point (c), and Article 7(4) of Directive (EU) 2016/797 should be considered as fulfilled for the fifteen vehicles concerned. Therefore, the request submitted by Italy not to apply temporary point 7.4.2.3, paragraph 3(b), of the Annex to Regulation (EU) 2016/919 to those vehicles and to defer the migration from ETCS Baseline 2 to Baseline 3 by 31 December 2025 should be accepted.

(9) Italy committed to informing the Commission of the planning for and progress in upgrading the vehicles by 31 December of each year.

(10) 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 for non-application until 31 December 2025 of point 7.4.2.3, paragraph 3(b), of the Annex to Regulation (EU) 2016/919, submitted to the Commission by the Italian Republic on 29 June 2022, is accepted for fifteen vehicles V250 Italia/ETR700 with identification numbers 4810, 4804, 4814, 4815, 4881, 4812, 4813, 4811, 4806, 4883, 4816, 4809, 4802, 4801, and 4807.

Article 2

Italy shall inform the Commission of the planning for and progress in upgrading the vehicles by 31 December of each year.

Article 3

This Decision shall apply within the geographic limits of the Italian railway network.

Article 4

This Decision is addressed to the Italian Republic.

It shall apply until 31 December 2025.

Done at Brussels, 9 February 2023.

For the Commission
Adina-Ioana VĂLEAN
Member of the Commission