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Clarification note

Type of SSC application to be selected by holders of Part A/B safety certificates

	<i>Drafted by</i>	<i>Validated by</i>	<i>Approved by</i>
<i>Name</i>	M. SCHITTEKATTE	T. BREYNE	J. DOPPELBAUER
<i>Position</i>	Team Leader	Head of Unit	Executive Director
<i>Date</i>	21/01/2020	21/01/2020	21/01/2020
<i>Signature</i>			

Document History

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1.0	21/01/2020	First version

The purpose of this document is to foster an harmonised EU approach to the safety certification process. Those concerned with this clarification note are encouraged to voluntarily apply it.

The present document is a non-legally binding guidance of the European Union Agency for Railways. 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

When railway undertakings holding a valid safety certificate (Part A/Part B) apply for a single safety certificate, it has been questioned whether the application should be for a new single safety certificate or a renewal/an update of the previous safety certificate(s).

2. Clarification

The transition from Part A/Part B certificates to single safety certificate is only possible through applying for a new single safety certificate in the one-stop shop.

In Member States that have transposed Directive (EU) 2016/798, the national safety authorities cannot apply the old safety certification regime, i.e. they shall apply transitional provisions as set out in Article 15(5) of Regulation (EU) 2018/763.

Regulation (EU) 2018/763 provides for a consistent legal approach to issuing, renewal and update of already issued single safety certificates but not of existing Part A/Part B certificates.

In the case of the transition from Part A/Part B certificates to a single safety certificate, the safety certification body and the national safety authority or authorities concerned with the area of operation should consider details of changes to the evidence submitted in the previous application (for Part A/Part B certificates) and the results of past supervision activities carried out by the national safety authorities to prioritise or target their assessment respectively.

Regulation (EU) 2018/762 shall apply to any applications for a single safety certificate.

3. Legal background

a) Regulation (EU) 2018/763

- Article 15. Transitional provisions

“[...]

5. After the relevant date, any railway undertaking established in the Member State concerned, for which a safety certificate issued in accordance with Directive 2004/49/EC needs renewal or update resulting from changes to type, extent and area of operation, shall submit a new application for a single safety certificate through the one-stop shop, in accordance with this Regulation.

[...]”

- Article 16. Repeal

“[...]

Regulation (EC) No 653/2007 is repealed with effect from 16 June 2019. However, it shall continue to apply until 15 June 2020 in respect of those Member States that have notified the Agency and the Commission in accordance with Article 33(2) of Directive (EU) 2016/798 that they have extended the period for transposition of that Directive.”

- Article 17. Entry into force and application

“[...]

It shall apply from 16 June 2019 in the Member States that have not notified the Agency and the Commission in accordance with Article 33(2) of Directive (EU) 2016/798. It shall apply in all Member States from 16 June 2020. However, Article 15(1), (2), (3) and (7) shall apply from 16 February 2019 and Article 15(6) shall apply from 16 June 2019 in all Member States.”

- Annex II. Safety assessment process

“[...]

7.1. A single safety certificate may be renewed upon request of the applicant before the expiry of its validity to ensure continuity of certification.

[...]

8.1. A single safety certificate shall be updated whenever there is a substantial change proposed to the type or extent of operation in accordance with Article 10(13) of Directive (EU) 2016/798, or in case of extension of the area of operation in accordance with Article 10(14) of that Directive.

[...]”

b) Regulation (EU) 2018/762

- Article 3. Safety management system requirements related to railway undertakings

Railway undertakings shall establish their safety management systems in accordance with the requirements set out in Annex I.

Those safety management system requirements shall apply to the single safety certificates referred to in Article 10 of Directive (EU) 2016/798, for the purposes of the assessment of applications and of supervision.

- Article 6. Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

It shall apply from 16 June 2019 in the Member States that have not notified the Agency and the Commission in accordance with Article 33(2) of Directive (EU) 2016/798. It shall apply in all Member States from 16 June 2020.