**ERA RECOMMENDATION No. 125**

**of the European Union Agency for Railways**

**on**

The amendment of Commission Regulations on the technical specification for interoperability relating to the subsystems:

‘Operation and traffic management’ subsystem of the rail system in the European Union – Commission Regulation (EU) 2015/995 of 8 June 2015 amending Decision 2012/757/EU concerning the technical specification for interoperability

THE EXECUTIVE DIRECTOR

HAVING REGARD TO Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004, hereafter referred to as the ‘Agency Regulation’, in particular Articles 4 and 19 thereof,

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, hereafter referred to as the ‘the Interoperability Directive’, in particular Articles 4 and 5 thereof,

HAVING REGARD TO Directive (EU) 2016/798 of European Parliament and of the Council of 11 May 2016 on railway safety of the rail system within the European Union, hereafter referred to as the ‘the Safety Directive’, in particular Articles 4 (2) and 8 thereof,

HAVING REGARD TO Commission Delegated Decision (EU) 2017/1474 supplementing Directive (EU) 2016/797 of the European Parliament and of the Council with regard to specific objectives for the drafting, adoption and review of technical specifications for interoperability, in particular Articles 11 thereof,

Whereas:

(1) The European Commission requested the European Union Agency for Railways, pursuant to Article 5 paragraph 2 of the Interoperability Directive, to prepare the recommendations revisions to technical specifications for interoperability (TSIs) in relation to the new requirements established by the Fourth Railway Package.

(2) Decision (EU) 2017/1474 sets out the specific objectives for the drafting, adoption and review of technical specifications for interoperability (TSIs).

(3) Article 11 of Decision (EU) 2017/1474 sets out specific objectives applicable to this regulation. In particular this Regulation should:

(a) define fundamental operational principles and common operational rules in order to allow for the reduction of the number of national rules and better define where national rules are applicable;

(b) include provisions to ensure compatibility between complete trains and the routes on which they are to be operated, as specified in Article 23 of Directive (EU) 2016/797;

(c) take into account the development of standardised communication methods and protocols, standardised data exchange systems and the registers referred to in Articles 47, 48 and 49 of Directive (EU) 2016/797;

(d) provide for the development of coherent links to the operational requirements of the safety management systems of the infrastructure managers and railway undertakings. This shall include ensuring that safety culture and human factors are adequately taken into account; and

(e) define skills and qualifications for all staff performing safety-critical tasks that are not covered in other relevant legislations .

(4) The Annex to COMMISSION REGULATION (EU) 2015/995 of 8 June 2015
amending Decision 2012/757/EU concerning the technical specification for interoperability relating to the ‘operation and traffic management’ subsystem of the rail system in the European Union hereafter referred to as the ‘TSI OPE’ should also be amended in order to comply with the new requirements established by the Fourth Railway Package.

(5) Article 4(3) (i) of Directive (EU) 2016/797 provides that TSIs are to indicate the parameters of the vehicles and fixed subsystems to be checked by the railway undertaking to ensure compatibility between vehicles and the routes on which they are to be operated and the procedures to be applied to check those parameters. TSIs should therefore be aligned with Directive (EU) 2016/797.

 (6) Article 11(5) (c) of Decision (EU) 2017/1474 requires TSIs to be reviewed in order to close the remaining open points. In particular, define the scope of the open points for operations and distinguish between national applicable rules and rules requiring harmonisation through Union law in order to allow for migration to an interoperable system defining the optimal level of technical harmonisation.

(7) Chapter 7 of the Annex 1 to this Regulation should provide the implementation dates for the different requirements of this TSI; the dates should differ between the Member States that have notified the Agency and the Commission in accordance with Article 57(2) of Directive (EU) 2016/797 and the Member States that have not notified.

(8) In accordance with Article 5 of the Agency Regulation and with the work programme of the Agency, working parties have been established for making a proposal for a recommendation as regards amendments to the above mentioned regulations and decision. The amendments are set up in Annex 1 and Annex 2 of this recommendation.

(9) The proposed amendments could have an impact on the social environment or the rail freight customers and passengers. A social consultation has been established from 20 July 2018 to 19 October 2018. Results of the social consultation have been analysed during a specific meeting organized on 23 October 2018. A final report on the further development of the TSI OPE has been carried out as set out in Annex 3 of this recommendation.

(10) An impact assessment in accordance with Article 5 of the Interoperability Directive has been carried out during the revision of these regulations and decision. The proposed amendments are covered by that impact assessment, as set out in Annex 4 of this recommendation.

HAS ADOPTED the following recommendation:

1. Annex I to COMMISSION REGULATION (EU) 2015/995 of 8 June 2015
amending Decision 2012/757/EU concerning the technical specification for interoperability relating to the ‘operation and traffic management’ subsystem of the rail system in the European Union is amended as set out in Annex 1 of this recommendation.
2. Appendix A of Annex I to COMMISSION REGULATION (EU) 2015/995 of 8 June 2015
amending Decision 2012/757/EU concerning ERTMS operational principles and rules is amended as set out in Annex 2 of this recommendation.

This recommendation is addressed to the European Commission.

 Valenciennes,

 Josef DOPPELBAUER

 Executive Director