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Process of Obtaining Authorization for Placing TSI-Compliant Railway Vehicles in Service in Poland

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Summary
The article discusses the legal acts applicable to the process of obtaining authorization for placing TSI-compliant railway vehicles in service. The procedure in the case of applying for the first authorization for a railway vehicle is also outlined. The procedure concerning a vehicle that is authorized for placement in service in another Member State, but that will also be used in Poland, is presented, as well.

Keywords: authorization, railway vehicles

1. Introduction

The formation of the European Union has allowed its citizens to move freely within all of its Member States. In order to facilitate transport between the Member States, the European Parliament and the Council adopted Directive 2008/57/EC on the interoperability of the rail system within the Community [7].

The legal act that regulates the functioning of railway transport in Poland is the Law on Railway Transport [9]. The amendments made to this Law were intended to transpose Directive 2008/57/EC [7] and other European law regulations concerning railways into the Polish legal system. The Law also regulates the procedures in terms of granting authorization for placing railway vehicles in service within the Polish railway system.

2. Authorization for placing a railway vehicle in service

The legal act that regulates the functioning of railway transport in Poland is the Law on Railway Transport [9] which transposes Directive 2008/57/EC [7] and the relevant secondary legislation (regulations, announcements, etc.) into Polish law. The Law was adopted on 28 March 2003. It is amended from time to time in order to adjust it to the regulations in force in European countries. The changes are also intended to facilitate the functioning of railways in Poland. At the moment of writing this article, the latest amendment to the Law was published under Item 710 in the Journal of Laws of 2019.

After the Law was introduced, railway vehicles were authorized for placement in service under a type certificate, in accordance with Article 22f.1 of the Law [9]. Directive 2008/57/EC [7] forced amendments to the Law [9] i.a. with respect to the procedure of granting authorization for placing railway vehicles in service. Currently, Article 23b.1 of the Law divides railway vehicles into TSI-compliant and TSI-non-compliant, as per the TSIs in force on the day of granting the authorization for placing the given vehicle in service. All new railway vehicles shall be TSI-compliant. Consequently, this article focuses only on the procedure of obtaining authorization for a TSI-compliant railway vehicle.

2.1. First authorization for placing a railway vehicle in service

According to Article 23b.2 of the Law [9], prior to placing a railway vehicle in service, authorization should be obtained from the President of the Railway Transport Authority (UTK). The authorization may specify the terms of using the vehicle. In practice, the terms of use concern the vehicle's technical and structural parameters. An applicant that has received autho-

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rization for placing the first vehicle of a given type in service has the right to do the same with consecutive vehicles of this type, with respect to which he has to issue a declaration of type compliance, i.e. confirm that this vehicle is in compliance with the first vehicle of that type. This is outlined in Article 23d of the Law [9].

Article 23b.3 specifies in detail who may submit an application for authorization for placing a vehicle in service. The entities that may apply to the President of the UTK for authorization for placing a vehicle in service are an administrator, a railway carrier, a keeper, a manufacturer, a modernizer, or an importer. The application should be accompanied by the documents listed in Article 23e.1, i.e.:

1) an EC declaration of verification of the subsystem for all structural subsystems of the railway vehicle, if all of the structural subsystems of the railway vehicle are authorized for placement in service in accordance with the provisions of Chapter 4a, as regards the authorization of subsystems for placement in service;
2) all EC verifications of the subsystems that confirm:
   a) compliance of the railway vehicle's subsystems with the TSI and their safe installation;
   b) compatibility of the railway vehicle with the railway network, including documents confirming the compatibility of the technical and operational characteristics of the railway vehicle with the infrastructure and fixed installations;
   c) compliance of the railway vehicle with the provisions introduced under Article 25t of the Law [9] that apply to the open points and specific cases specified in the TSIs.

EC declaration of verification for a subsystem

An EC declaration of verification for a structural subsystem should contain:

- a reference to the directive the subsystem is compliant with;
- the name and address of the entity issuing the EC verification declaration of the subsystem, and if this entity is different than the manufacturer, also the name and address of the manufacturer;
- a general description of the subsystem;
- the name and address of the notified certification body (or bodies) that carried out the EC verification procedures with respect to the subsystem in accordance with the essential requirements;
- a reference to the documents contained in the technical documentation related to the EC verification of the subsystem;
- information about the permanent or temporary requirements the subsystem should meet, including potential limitations concerning its operation;
- the validity date of the EC declaration of verification of the subsystem, if issued for a fixed period of time;
- the name and signature of the person authorized to sign on behalf of the entity issuing the EC declaration of verification of the subsystem;
- the date of issuing the EC declaration of verification of the subsystem.

A specimen of the EC declaration of verification of the subsystem is available on the website of the UTK.

Compliance of the subsystems of a railway vehicle with the TSI and their safe installation

In order to facilitate the fast movement of EU citizens across the Member States, legal regulations governing railway transport had to be unified. First of all, the essential requirements for the safe functioning and interoperability of railways were specified. Then, specific technical requirements were laid down with respect to these requirements.

Detailed technical and functional requirements, procedures, and methods of evaluating compliance with the essential requirements concerning the interoperability of railways, and the requirements in terms of operation and maintenance concerning the elements of interoperability and subsystems were laid down in the Technical Specifications for Interoperability (TSI). For the ROLLING STOCK subsystem were published:

- WAG TSIs [6] (freight wagons),
- PRM TSIs [3] (persons with reduced mobility),
- LOC&PAS TSIs [4] (locomotives and passenger rolling stock),
- SRT TSIs [2] (safety of railway vehicles in tunnels),
- NOISE TSIs [5] (noise emissions by railway vehicles),
- CCS TSIs (command, control, and signaling).

Each of the above TSIs contains an annex that specifies the technical parameters of the vehicle that should be checked in order to evaluate compliance of the ROLLING STOCK subsystem with the essential requirements. Evaluation is carried out at various stages of design, development, and production. All of the technical parameters listed above and contained in the annexes to TSIs are evaluated when issuing a vehicle type certificate for a TSI-compliant vehicle. The type certificate confirms compliance of the subsystems of a railway vehicle with the TSIs and their safe installation.

Compliance of a railway vehicle with the regulations applicable to the open points and specific cases specified in the TSIs

When the Technical Specifications for Interoperability (TSIs) were developed, a number of Member

States informed the European Commission that they were using technical solutions different from those proposed by the Commission. Some of these solutions were virtually impossible to eliminate from local railway networks or the implementation of the changes proposed by the EU would require significant financial outlays.

For these Member States, the Commission introduced the so-called specific cases in the TSIs. They were divided into two categories: permanent (P, not to be removed from the TSIs) and temporary (T, to be removed in the future once the target system has been achieved). In the process of granting authorization for placing a vehicle in service in a country with respect to which a specific case has been approved, this aspect needs to evaluated. The requirements for specific cases are contained in the TSIs. Additionally, the countries where specific cases have been found were obliged to publish a list of the standardization documents according to which specific cases are evaluated.

In Poland, in accordance with Article 25d.1 of the Law [9], the list of the relevant technical specifications and standardization documents, the use of which allows the essential requirements to be met in terms of interoperability of the railway system, was published by the President of the UTK. This is the so-called "List of the President of the UTK" [8]. The standardization requirements for the specific cases in Poland that concern the ROLLING STOCK subsystem are listed in sections from A1 to A6 of the List.

A separate problem concerned the technical areas with respect to which the Member States had different requirements and that were not clearly covered in the TSIs. For these areas, the so-called open points have been created. As in the case of specific cases, the Member States were obliged to specify their own standardization documents in terms of open points.

In Poland, under Article 25d.1 of the Law [9], the list of standardization documents applicable to open points was published by the President of the UTK in the form of the "List of the President of the UTK" [8]. The requirements applicable to the particular open points of the ROLLING STOCK subsystem are contained, as in the case of specific cases, in sections from A1 to A6 of the List.

An applicant that wishes to receive the first authorization for placing a vehicle in service in Poland is also obliged to submit documents confirming compliance with the open points and specific cases concerning Poland and listed in the dedicated TSIs.

Compatibility of railway vehicles with the Polish railway network

The interoperability of a railway system is ensured in full if a vehicle authorized for placement in service is compliant with all of the TSIs and is operated within the TEN network, which is also compliant with the TSIs. However, it is not possible for the entire railway infrastructure existing in all Member States to be TSI-compliant. Therefore, in order not to limit the operation of new vehicles only to the TEN network, new vehicle types should also be evaluated in terms of compatibility with railway infrastructure and fixed installations.

The obligation to publish the technical extent of the evaluations of vehicles with respect to railway infrastructure and the standardization documents used for the purpose of vehicle evaluation was imposed, in line with Article 25t of the Law [9], by the President of the UTK. The above requirements, together with the standardization documents, are included in the List of the President of the UTK [8]. Those concerning the ROLLING STOCK subsystem are contained in section A7.

A vehicle that is TSI-compliant and meets the requirements specified in section A7 of the List of the President of the UTK [8] may be safely operated on all railway lines in Poland, regardless of whether they are a part of the TEN network or not. In this way, the idea of the interoperability of railways in Poland has been ensured.

2.2. Successive authorization for placing a railway vehicle in service

According to the idea of interoperability, a railway vehicle authorized in one of the Member States should be fit for use in other Member States. In its legislative documents, Poland has laid down a procedure of authorizing such vehicles for placement in service.

Article 23c of the Law [9] provides that "A TSI-compliant railway vehicle that has been authorized for placement in service in another Member State shall not require authorization for placement in service if the TSIs concerning the vehicle do not specify open points or specific cases and the vehicle is operated only within a railway network compliant with TSIs that do not provide for open points and specific cases."

Like in the case of the first authorization for placement in service, successive authorization for a vehicle that has already been authorized in another Member State may be applied for to the President of the UTK by an administrator, a railway carrier, a keeper, a manufacturer, a modernizer, or an importer of the railway vehicle. This is regulated in Article 23f.1 of the Law [9]. When submitting an application for authorization for placement in service of a vehicle that has already been authorized in another Member State, the authorization received in that Member State has to be attached.

Article 23f.2 specifies the documents that have to be attached to the application, in addition to the documents authorizing placement of the vehicle in service in another Member State. The documents are:

- technical documentation confirming that the railway vehicle is compatible with the railway network, including documents confirming the compatibility of technical and operational characteristics of the vehicle with the infrastructure and fixed installations;
- technical documentation confirming that the railway vehicle is compliant with the regulations issued under Article 25t of the Law [9] that apply to the open points and specific cases specified in the TSIs;
- documentation containing information about the maintenance of the railway vehicles, including but not limited to upgrades or renewals carried out after the authorization for placement in service was granted;
- information on the data collection procedure, permitting read out and evaluation, as long as this information is not harmonized – in the case of vehicles equipped with data recorders;
- information about the expected period of using the vehicle in the railway network.

Technical documentation confirming compliance of a railway vehicle with the open points and specific cases specified in TSIs for Poland

Discussed below is the case of a railway vehicle authorized for placement in service in another Member State; the vehicle has been tested by accredited laboratories and evaluated by notified bodies as compliant with the essential requirements. As a result, it meets the essential requirements specified in the TSIs. However, one needs to remember that the TSIs include open points and specific cases. According to Article 25d.1 of the Law [9], the technical requirements and standardization documents concerning open points and specific cases are specified in the List of the President of the UTK [8]. Those concerning the ROLLING STOCK subsystem are contained in sections from A1 to A6 of the List.

Prior to submitting an application to the President of the UTK for authorization for the placement in service of vehicles already authorized in another Member State, it also has to be checked if there are any specific cases specified for that State. If so, it has to be checked what requirements are specified in the dedicated TSIs or whether these specific cases are also specific cases in Poland.

One case is that a specific case does apply both in the Member State where the vehicle was granted the first authorization and in Poland. Therefore, it has to be demonstrated that the vehicle to be operated in Poland meets the TSIs for the specific case, that is Poland.

Alternatively, a specific case does apply in the Member State where the vehicle was granted the first authorization, but it is not a specific case in Poland. In that case, it has to be demonstrated that the vehicle meets the dedicated TSIs.

Technical documentation confirming compatibility of a railway vehicle with the railway network

A railway vehicle that has been granted authorization for placement in service in another Member State meets the essential requirements. This means that it has already been demonstrated that it may safely operate within railway infrastructure that is compliant with the TSIs. However, its operation outside of the TEN system requires further confirmation of compliance with the domestic railway system requirements.

In Poland, the obligation of publishing requirements for the evaluation of compatibility with Polish railway infrastructure and the standardization documents used to evaluate the vehicle rests with the President of the UTK. The relevant requirements have been published in the List of the President of the UTK [8]. Those concerning the ROLLING STOCK subsystem are contained in section A7.

A vehicle that has been authorized for placement in service in another Member State and meets the requirements specified in section A7 of the List of the President of the UTK [9] may be safely operated on all railways in Poland.

Other documentation required when submitting an application for authorization for a vehicle authorized in another Member State

The other documents listed in Article 23f.2 of the Law [9] that have to be attached to an application for authorization for placement in service of a vehicle that has already been authorized in another Member State are:

- documentation containing information about the maintenance of the railway vehicles, including but not limited to upgrades or renewals carried out after the authorization for placement in service was granted;
- information on the data collection procedure, permitting read out and evaluation, as long as this information is not harmonized – in the case of vehicles equipped with data recorders;
- information about the expected period of using the vehicle in the railway network.

The above documents contain information about a vehicle that has been authorized for placement in

service. The first one of them is intended to confirm that no modifications were made to the vehicle after it was authorized for placement in service. Therefore, the certificate issued with respect to an authorized vehicle type remains valid.

3. Conclusions and summary

An entity applying for authorization for placing a TSI-compliant railway vehicle in service in Poland should remember that the sole confirmation of compliance with TSI requirements is insufficient to receive the authorization. If the application concerns the first authorization for placing the vehicle in service within the Polish railway network, in addition to the CE certificate (confirming that the vehicle is TSI-compliant), a document confirming compliance with domestic regulations concerning the open points and specific cases listed in the dedicated TSIs that apply to Poland should also be submitted. Additionally, a document confirming compliance with the regulations concerning the vehicle's compatibility with the Polish railway network should be furnished.

A vehicle covered by authorization issued in another Member State may receive authorization in Poland on the basis of the authorization already held, documents confirming compliance with domestic regulations concerning the open points and specific cases listed in the dedicated TSIs that apply to Poland, and a document confirming that regulations concerning compatibility with the Polish railway network are complied with.

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