

Cleaning up National Rules

7th ERA Workshop, Budapest, 02 October 2019
Pio Guido, Head of Railway System Department



Interoperability Directive principles

- **Content of legislation should be limited to ‘essential requirements’** leaving the technical details to standards
- IOD’s objective is **to avoid market fragmentation** and thus to support the efficiency of the rail market
- TSIs specify the **optimal level of functional and technical harmonisation** to reach the objectives of the Directive:
 - **TSIs clearly identify** which aspects of the essential requirements are not covered (e.g. open-points) and **therefore the scope for national rules**
 - NTR cannot impose stricter requirements than TSIs
 - TSIs may provide that parts of a subsystem to be subject to a safety risk assessment to ensure that the level of risk is not higher than the objective for the service instead of detailed prescriptions

The Interoperability Directive provides

- **Any national rule** which contains railway safety or technical requirements **is to be notified**
- **Limited cases where national rules may continue to apply**, Article 13(2) of IOD
- MSs have to notify national rules which fall under Article 13(2) of IOD, **other national rules are to be repealed**
- When notifying, Members States have **to provide justification** for the existence of national rules (e.g. identification of the related open-point)
- **Full text** of rules must be submitted

- Harmonisation in TSIs makes national rules redundant and unnecessary
- **Limited cases** where national rules may continue to apply:
 - **New national rules** may only be adopted in respect of an **open point in a TSI** or in the case of an **urgent temporary** preventive measure
 - **Existing national rules are limited** to (1) networks and vehicles excluded from the scope of TSIs, (2) open-points listed in TSIs, (3) specific cases listed in TSIs, (4) when necessary to ensure technical compatibility with a network not yet in compliance with TSI, and (5) as an urgent preventive measure

March 2019: ERA issued a **draft status report** for all VA rules in addition to TSI with its assessment.

June 2019: ERA final **evaluation report** on the VA national rules

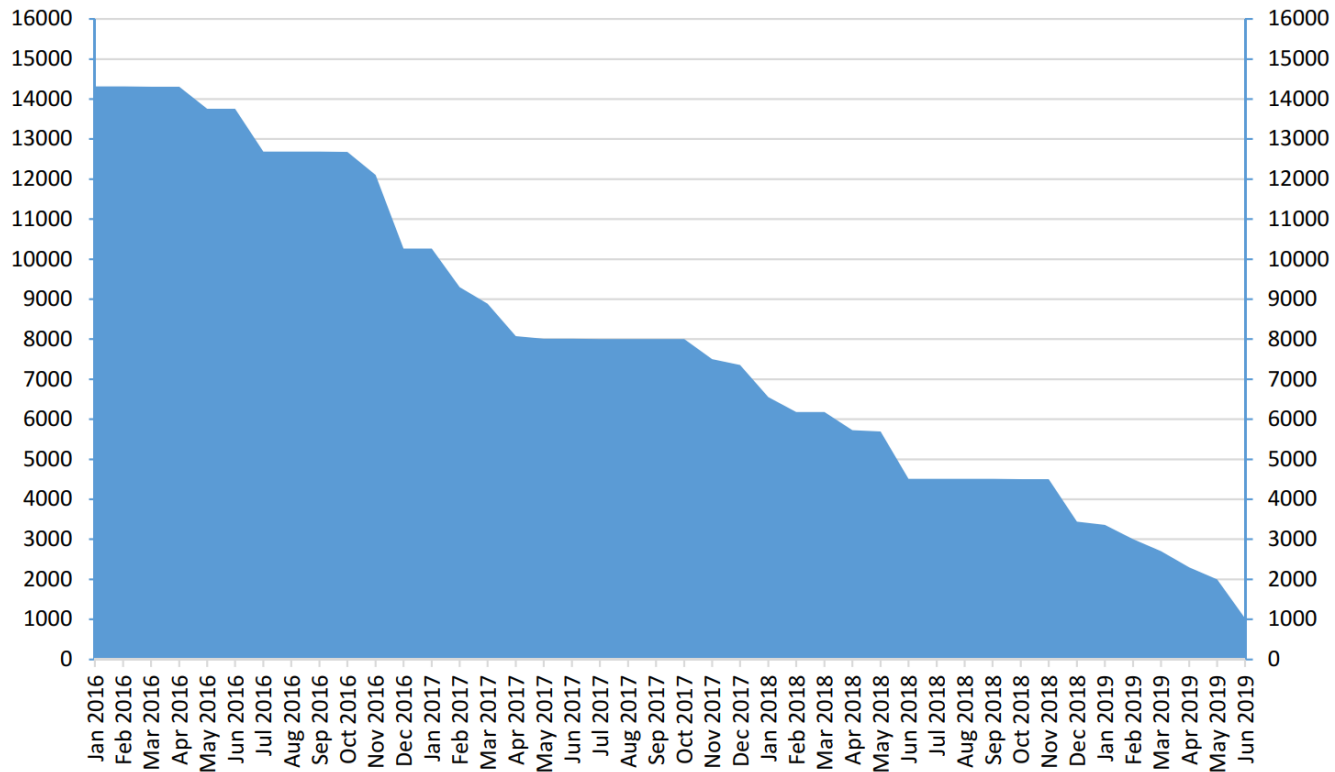
Issued on 14 June, available [here](#)

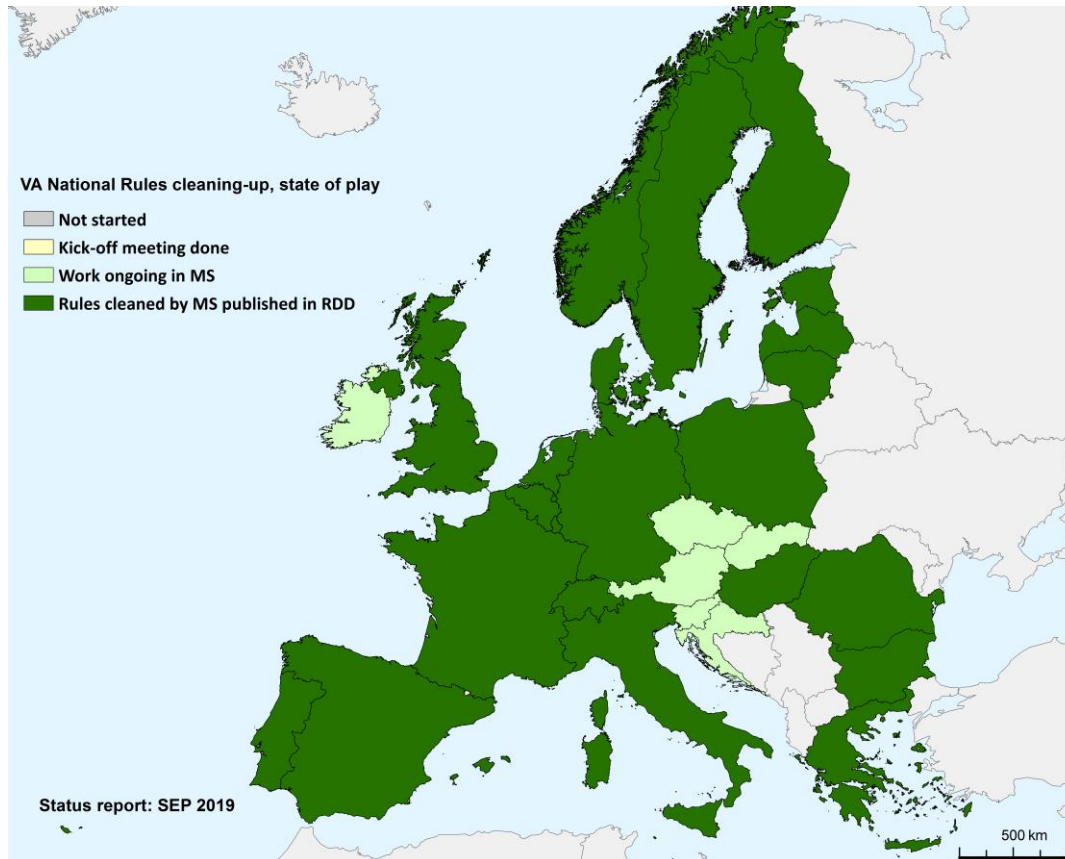
Engaged with MSs to clarify the impact of the report

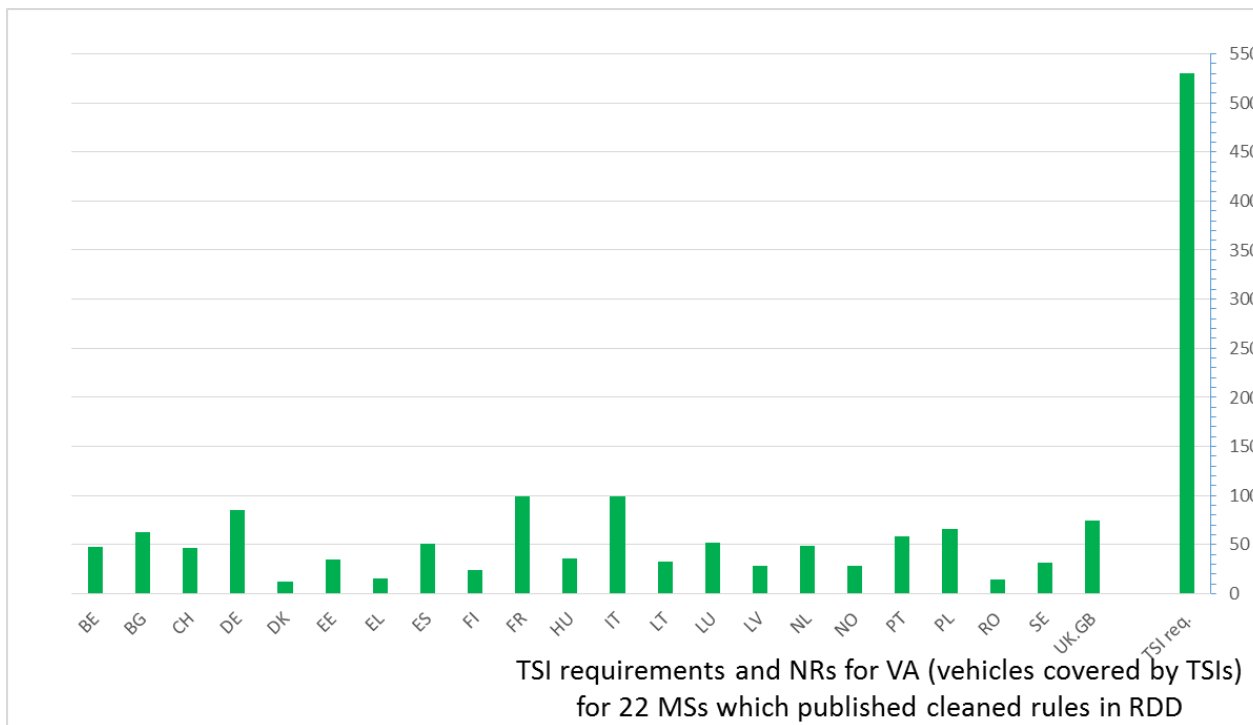
September 2019: three **Opinions** issued to MS

Procedures in Articles 25 and 26 of Regulation (EU) 2016/796 apply

Evolution of NRs for Vehicle Autorisation in addition to latest TSIs







Article 14(10) of Directive (EU) 2016/797 :

ERA Task Force issued a **proposal** for legislative Act to the EC in July to lay down requirements for classifying national rules for vehicle authorization concerning:

- Article 13.2(a): open points as referred to in Article 4(6);
- Article 13.2 (a): case where the TSIs do not cover, or do not fully cover, certain aspects corresponding to the essential requirements from other EU legislation;
- Article 13.2 (c): specific cases requiring the application of technical rules not included in the relevant TSI;
- Article 13.2 (d): technical compatibility with existing network.

No “A” “B” “C”, rather:

“equivalent” “not equivalent”

Classification accompanied by conditions when relevant

Use of RDD pending SRD availability

Statement of evaluation by NSA

Priority: according to business/geographical needs – planning to be developed

Dedicated Workshop 19 September with EC, Sector, NSA

Will identify TMS that are in addition
to the requirements in the scope of
the amended TSIs related to fixed
installations.

Ensure effective transparency of
National rules in force.

Identify potential TSI deficiencies,
specific case.

Fixed Installations, NR Notification

Existing or Draft rules for fixed installations are to be notified

Done through **NOTIF-IT** pending the availability of the **Single Rule Database**

Rules not NOTIFIED are not applicable

National rules subject to Agency examination

IoD	National rules for Fixed Installation to be notified by Member States	Subject to Agency Assessment
Art. 13.2(a)	Where the TSIs do not cover, or do not fully cover, certain aspects corresponding to the essential requirements, including open points as referred to in Article 4(6);	Yes-limited to open points called by TSIs. No for other directives.
Art. 13.2(b)	Where non-application of one or more TSIs or parts of them has been notified under Article 7	No, non application of TSI are to be managed on case by case basis.
Art. 13.2(c)	Where a specific case requires the application of technical rules not included in the relevant TSI;	Yes
Art. 13.2(d)	National rules used to specify existing systems, limited to the aim of assessing technical compatibility of the vehicle with the network	Yes, assessed as VA Rules
Art. 13.2(e)	Networks and vehicles not covered by TSIs (e.g metric gauge)	No
Art. 13.2(f)	As an urgent temporary preventive measure, in particular following an accident	No

Next steps

MSs are to nominate or confirm to the Commission Contact Points for the notification of national rules for fixed installations. The Commission will share the list with the Agency.

The Agency will send to all Contact Points the Excel table and methodology how to fill it. All the table to be filled in by December 2019.

The notification should be limited to open points and specific cases indicated in the TSIs.

The Agency and MSs concerned will exchange information on the content of the file and initial Agency assessment.

In case of potential TSI deficiency, MS need to collect them and apply Article 6 of IOD. Each MS is requested to present for a discussion at RISC of November 2019 a clear position on the requirements outside the cases listed in Article 13(2) of IOD. Unclarified aspect will be managed by EC and a feedback will be given next RISC in November.

It is possible to meet essential requirements and maintain performance

Give insurance that necessary technical specifications are implemented

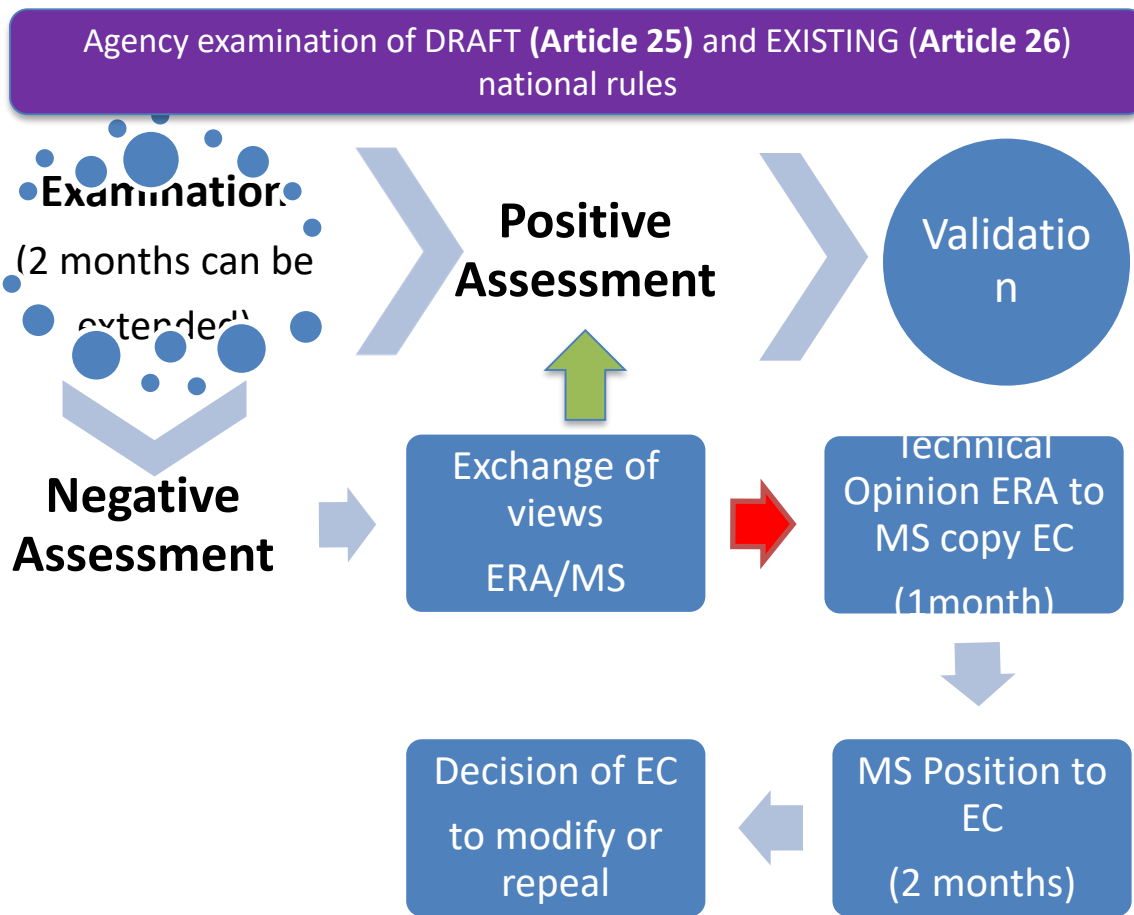
Issue standards or reference system specifications to be used by the industry
(voluntary basis)

Asset management and harmonisation of assets:

Generally, the network is an asset of the Member State

⇒ Member State may set level of performance or functional harmonisation requirements through **delegated management contracts** and **in tenders for new lines financed by them**

Also, it is possible to have Company Rules by IMs complementing but not contradicting TSIs and NRs





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