

CRR-G-009 Annex 6

Version1 03 Feb 2021



CRR Project ID	(CRR use only)
CRR Project Short Name	(CRR use only)
CRR Project Manager	(CRR use only)
CRR Quality Reviewer/s	(CRR use only)
ERA Project ID (to (EU)2020/424 Art3(4))	(CRR use only)
Applicant for TSI non-application	
Representative(s) of Applicant	
Documented Evidence of Applicant	
Status of this CL	

Topic No	Reference	Case	Requirement	Application Reference	Finding of NSA IE review (plausible) (not plausible) (further evidence required) (not applicable)	Notes:
1	(EU)2018/545 Art17(2)	Any Case	The applicant shall identify any case which requires the non-application of TSIs and submit its application to the concerned Member States in accordance with the provisions of Article 7 of Directive (EU) 2016/797. >Identification of any TSI requirement, that shall not be applied in this project.			
2	(EU)2018/545 Art17(2)		When non- application of TSIs concerns vehicles with an area of use covering more than one Member State, the authorising entity and the concerned NSAs for the area of use of the vehicle have to coordinate with the applicant on the alternative measures to take in order to promote the final interoperability of the project. >Which areas of use are contained in this project? >Have all affected Member States agreed to a coordinated non-application of TSIs?			
3	(EU)2020/424 Art2(1.a)		1. A request for non-application shall contain the following information: (a) a reference to the case referred to in Article 7(1) of Directive (EU) 2016/797 under which the non-application is considered to be justified; >Which case (Topic No. 4-10) has been chosen by the Applicant?			
4	(EU)2016/797 Art7(1.a)	One of the Cases must have been chosen by the Applicant	Case 1a 1. Member States may allow the applicant not to apply one or more TSIs or parts of them in the following cases: (a) for a proposed new subsystem or part of it, for the renewal or upgrading of an existing subsystem or part of it, or for any element referred to in Article 1(1) which is at an advanced stage of development or which is the subject of a contract in the course of performance on the date of application of the TSI(s) concerned; >Do the conditions for this case apply?			
5	(EU)2016/797 Art7(2)		Case 1a - National List of Projects 2. In the case referred to in point (a) of paragraph 1, the Member State concerned shall communicate to the Commission, within one year of entry into force of each TSI, a list of projects that are taking place within its territory and which, in the view of the Member State concerned, are at an advanced stage of development. > Is the project on that list? (positive, but not essential)			
6	(EU)2016/797 Art7(1.b)		Case 1b 1. Member States may allow the applicant not to apply one or more TSIs or parts of them in the following cases: (b) where, following an accident or a natural disaster, the conditions for the rapid restoration of the network do not economically or technically allow for partial or total application of the relevant TSIs, in which case the non- application of the TSIs shall be limited to the period before the restoration of the network; >Do the conditions for this case apply?			
7	(EU)2016/797 Art7		Case 1c 1. Member States may allow the applicant not to apply one or more TSIs or parts of them in the following cases: (c) for any proposed renewal, extension or upgrading of an existing subsystem or part of it, when the application of the TSI(s) concerned would compromise the economic viability of the project and/or the compatibility of the rail system in the Member State concerned, for example in relation to the loading gauge, track gauge, space between tracks or electrification voltage; >Do the conditions for this case apply?			
8	(EU)2016/797 Art7		Case 1d 1. Member States may allow the applicant not to apply one or more TSIs or parts of them in the following cases: (d) for vehicles arriving from or going to third countries the track gauge of which is different from that of the main rail network within the Union; >Do the conditions for this case apply?			
9	(EU)2016/797 Art7		Case 1e 1. Member States may allow the applicant not to apply one or more TSIs or parts of them in the following cases: (e) for a proposed new subsystem or for the proposed renewal or upgrading of an existing subsystem in the territory of the Member State concerned when its rail network is separated or isolated by the sea or separated as a result of special geographical conditions from the rail network of the rest of the Union. >Do the conditions for this case apply?			

10	with e-mail 2020-11-27 10:45 Department of Transport to CRR		<p>Case 1e - clarification</p> <p>Case 1e may be applied '[...] in relation to Article 7 (1)(e) of (EU) 2016/797, [...] the Department is fully of the view that this provision, [...] is applicable to and can be used by Ireland at this time'</p> <p>>Do the conditions for this case apply?</p>			
11	(EU)2020/424 Art2(1.b)	Any Case	<p>1. A request for non-application shall contain the following information:</p> <p>(b) the reference to the title(s) of the TSI or TSIs covered by the request for non-application and to the provision(s) not applied.</p> <p>Each reference shall include, where relevant for assessing compliance, the time period or an estimate thereof, during which the non-application will continue;</p> <p>>Is this information included?</p>			
12	(EU)2020/424 Art2(1.d)part1		<p>1. A request for non-application shall contain the following information:</p> <p>(d) a reference to and details of the alternative provisions that the Member State intends to apply to compensate each non-application in the light of relevant essential requirements,</p> <p>>Is an alternative provision proposed for each TSI requirement which shall not be applied?</p>			
13	(EU)2016/797 Art13(2.b)		<p>2.National rules for implementing the essential requirements and, where relevant, acceptable national means of compliance, shall apply in the following cases: (b) where non-application of one or more TSIs or parts of them has been notified under Article 7;</p> <p>>Are all alternative provision proposed a national rule (or derived through the application of a national rule)?</p>			
14	(EU)2020/424 Art2(1.d)part2		<p>1. A request for non-application shall contain the following information:</p> <p>(d) a reference to and details of the alternative provisions that the Member State intends to apply to compensate each non-application in the light of relevant essential requirements.</p> <p>>Will the application of the proposed alternative provisions likely result in:</p> <ul style="list-style-type: none"> • at least the same level of safety, • at least the same level of protection of health, • at least the same level of protection of the environment and • an equivalent level of fulfilment of the other Essential Requirements of the IOD? 			
15	(EU)2020/424 Art2(1.d)part2		<p>1. A request for non-application shall contain the following information:</p> <p>(d) a reference to and details of the alternative provisions that the Member State intends to apply to compensate each non-application in the light of relevant essential requirements, including the measures to be taken to monitor their implementation. This must reflect the requirements of (EU) Directive 2016/797 Annex IV 3.1 in combination with (EU) Directive 2016/797 15(8) which both mandate that Irish National Rules shall be assessed by an IE-DeBo.</p> <p>>Is the assignment of one or more competent IE-DeBos proposed?</p>			
16	(EU)2020/424 Art2(1.d)part3		<p>1. A request for non-application shall contain the following information:</p> <p>(d) a reference to and details of the alternative provisions that the Member State intends to apply to compensate each non-application in the light of relevant essential requirements, including the measures to be taken to monitor their implementation and, where operational alternatives were agreed, their continuous application;</p> <p>>Are operational alternatives proposed?</p> <p>>If yes, is a proposal for their continuous application provided?</p>			
17	(EU)2020/424 Art2(1.c)Part1		<p>1. A request for non-application shall contain the following information:</p> <p>(c) the essential details of the project concerned, consisting of the technical, operational and geographical elements of the project,</p> <p>>Is this information included?</p>			
18	(EU)2020/424 Art2(1.c)Part2		<p>1. A request for non-application shall contain the following information:</p> <p>(c) the essential details of the project concerned, consisting of including a detailed description of the subsystem,</p> <p>>Is this information included?</p>			
19	(EU)2020/424 Art2(1.c)Part3		<p>1. A request for non-application shall contain the following information:</p> <p>(c) the essential details of the project concerned, consisting of vehicle or infrastructure requested to benefit from the non-application,</p> <p>>Is this information included?</p>			
20	(EU)2020/424 Art2(1.c)Part4		<p>1. A request for non-application shall contain the following information:</p> <p>(c) the essential details of the project concerned, consisting of and relevant key dates,</p> <p>>Is this information included?</p>			
21	(EU)2020/424 Art2(1.c)Part5	<p>1. A request for non-application shall contain the following information:</p> <p>(c) the essential details of the project concerned, consisting of or any other details distinguishing it from other projects;</p> <p>>Is this information included?</p>				
22	(EU)2020/424 Art2(1.e)	<p>1. A request for non-application shall contain the following information:</p> <p>(e) where more than one Member State is concerned, information on coordination taking place in accordance with the final sentence in Article 7(4) of Directive (EU) 2016/797 and/or Article 17(2) of Commission Implementing Regulation (EU) 2018/545 (2), when requests for non-application are linked to vehicle authorisations; the same information shall be provided for cross border infrastructure projects;</p> <p>>Is this information included?</p>				
23	(EU)2020/424 Art2(1.f)	Case1a Case1b Case1d Case1e	<p>1. A request for non-application shall contain the following information:</p> <p>(f) an technical analysis, ensuring that the non-application is justified and limited to the extent necessary under the particular circumstances.</p> <p>>Is this analysis included?</p> <p>>Is the analysis plausible?</p>			
24	(EU)2020/424 Art2(1.f)	Case1c	<p>1. A request for non-application shall contain the following information:</p> <p>(f) an economic analysis, ensuring that the non-application is justified and limited to the extent necessary under the particular circumstances.</p> <p>>Is this analysis included?</p> <p>>Is the analysis plausible?</p>			
24	(EU)2020/424 Art2(2.a.i)		<p>Case1a</p> <p>2. The request for non-application shall also provide the following specific information:</p> <p>(a) for requests made pursuant to point (a) of Article 7(1) of Directive (EU) 2016/797, the justification shall include:</p> <p>(i) the details of the project concerned, using the template established in the Annex. If the project is already on a list of advanced stage of development drawn up according to the same template, Member States may refer to it without having to re-submit the information already provided. The information shall be updated where relevant;</p> <p>>Is this information included?</p>			

25	(EU)2020/424 Art2(2.a.ii)	Case1a	Case1a 2. The request for non-application shall also provide the following specific information: (a) for requests made pursuant to point (a) of Article 7(1) of Directive (EU) 2016/797, the justification shall include: (ii) evidence that the project is at an advanced stage of development or subject to a contract in course of performance, with documentation providing the evidence for relevant dates and scope of the project; >Is this information included?			
26	(EU)2020/424 Art2(2.a.iii)	Case1a	Case1a 2. The request for non-application shall also provide the following specific information: (a) for requests made pursuant to point (a) of Article 7(1) of Directive (EU) 2016/797, the justification shall include: (iii) evidence that the planning or construction stage of a project at an advanced stage of development has reached a point where a change in the technical specifications may compromise the viability of the project as planned, in accordance with the definition of 'project at advanced stage of development' in Article 2(23) of Directive (EU) 2016/797; >Is this information included?			
27	(EU)2020/424 Art2(2.b)	Case1c	Case1c 2. The request for non-application shall also provide the following specific information: (b) for requests made pursuant to point (c) of Article 7(1) of Directive (EU) 2016/797, the justification shall include, depending on the nature of the non-application requested: (i) evidence that the application of one or more TSIs or part of them compromises the economic viability of the project. This evidence shall include a thorough economic analysis establishing unavoidable costs of compliance with the TSI, and providing evidence that such cost would render the project unviable. The analysis shall take into account exploitation revenue if the non-application allows earlier deployment and the longer term economic viability of the project within the national and European rail system; and/or (ii) evidence of the technical details justifying the negative impact of the application of one or more TSIs or part of them, on the project's technical compatibility with the national rail system; >Is this information included?			
28	(EU)2020/424 Art2(2.c)	Case1d	Case1d 2. The request for non-application shall also provide the following specific information: (c) for requests made pursuant to point (d) of Article 7(1) of Directive (EU) 2016/797, the justification shall include a list of the Member States and third countries concerned and the railway lines where the vehicles covered by the request are circulating; >Is this information included?			
29	(EU)2020/424 Art2(2.d)	Case1d	Case1d 2. The request for non-application shall also provide the following specific information: (d) for requests made pursuant to point (e) Article 7(1), the justification shall identify the network or network area(s) relevant for the request and justify its separation from the rail network of the rest of the Union, and/or its isolation. >Is this information included?			

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Topic No	Reference	Case	Requirement	Reference	Status	Notes
Process by CRR						
1	(EU)2016/797 Art7(3)	Case Ia Case Ib	3. In the cases referred to in points (a) and (b) of paragraph 1, the Member State concerned shall communicate to the Commission its decision not to apply one or more TSIs or parts of them.			
2	(EU)2016/797 Art7(4)	Case Ia Case Ib Case Ic Case Id Case Ie	4. In the cases referred to in points (a), (c), (d) and (e) of paragraph 1 of this Article, the Member State concerned shall submit to the Commission > the request for non-application of the TSIs or parts of them, >accompanied by a file containing the justification for the request , and > specifying the alternative provisions that that Member State intends to apply instead of the TSIs . In the case referred to in point (e) of paragraph 1 of this Article, the Commission shall analyse the request and decide whether or not to accept it on the basis of the completeness and coherence of the information contained in the file. In the cases referred to in points (c) and (d) of paragraph 1 of this Article, the Commission shall adopt its decision by means of implementing acts on the basis of such analysis. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 51(3).			
3	(EU)2020/424 Art3(2)	Any Case	2. A communication or request for non-application and any subsequent information to complete the file shall be submitted by electronic means only , to the dedicated mail address of the Commission: MOVE-RAIL-DEROGATIONS@ec.europa.eu			
4	(EU)2020/424 Art3(1)		1. The request for non-application shall be limited to 10 pages maximum . Supplementing information may be added through annexes to the request.			
5	(EU)2016/797 Art7(6)		6. Pending the decision of the European Commission, the Member State may apply the alternative provisions referred to in paragraph (EU)2016/797 Art7(4) without delay.			
Process by ERA						
6	(EU)2020/424 Art3(4)	Any Case	4. The acknowledgement of receipt issued by the Commission to the Member State within 7 days will contain a unique identifier with reference to the Member State concerned, the project and the year of submission. Member State shall refer to the unique identifier, whenever communicating with the Commission on the non-application case .			
7	(EU)2016/797 Art7(8)		8. Member States shall be informed of the results of the analyses and of the outcome of the procedure set out in paragraph 4 .			
8	(EU)2020/424 Art3(3)		3. The date for the purpose of Article 7(7) of Directive (EU) 2016/797 is the date when the request or subsequent information to complete the file was submitted by mail according to paragraph 2 .			
9	(EU)2016/797 Art7(7)		7. The Commission shall give its decision within four months of submission of the request supported by the complete file. In the absence of such a decision, the request shall be deemed to have been accepted .			