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European Union Agency for Railways  
120 rue Marc Lefrancq,  
59307 Valenciennes Cedex, France

### Request for an interpretative opinion

The Transport Infrastructure Access Authority, which is the regulatory body in the Czech Republic with regard to the Article 55 of the Directive 2012/34/EU is conducting proceedings in the case of new Czech infrastructure manager's traffic and signalling rule D1 (hereinafter referred to as IM). This rule replaces the previous rule D1 and introduces several new obligations for railway undertakings (hereinafter referred to as RUs). One of them in its articles 180 and 181 is a new obligation for RUs to prevent parked vehicles from unwanted movement by locked brake shoes. The RUs did not agree with this provision and complained to the RB.

This new D1 rule has not been notified in accordance with the procedure laid down in Article 8 of Directive 2016/798/EU. The RB stated in its decision that the rules which have not been notified are not applicable. RB justified it through the Article 4.5 of the *Guide for the application of the TSI OPE* issued by the European Union Agency for Railways on 16th June 2019. IM disagreed with the decision of the RB and asked the Ministry of Transport for an interpretative opinion.

Article 8 of the Directive 2016/798/EU has been transposed into Czech law through § 55(6) of the Act on rail system <https://www.updi.cz/en/state-administration-and-inspection/documents-and-legislation> (hereinafter referred to as Railway Act). However, this provision refers to the obligation to notify only national **legal** rules (acts, government and ministerial regulations). In its reply to IM, the Ministry of Transport claims that IM's rules **are not subject to the notification obligation** and that Directive 2016/798/EU has been **duly transposed** into Czech law.

IM operates 99% of all railways in the Czech Republic. Pursuant to § 22 (3) a) of the Railway Act IM is entitled to give instructions to RUs (issue rules) to ensure a safe rail transport operation. However, the instructions are binding for all RUs on behalf the § 35 (1) f) of the Railway Act and agreements based on Article 28 of the Directive 2012/34/EU between IM and individual RU.

**We kindly request the opinion of the European Union Agency for Railways on whether IM's rule D1, as issued on 29 December 2021 and with effect from 1 July 2022, is subject to obligatory notification in these circumstances and whether the Article 8 of the Directive 2016/798/EU is really duly transposed.**

An extract from rule D1, including the introductory provisions, the content and the contested provisions, is attached.

Yours sincerely,

Mgr. Andrea Zemanská  
*Head of the Track Access section*

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