

Opening of the market for domestic passenger transport services by rail: award of public service contracts. 4th Railway Package

2013/0028(COD) - 26/02/2014 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 386 votes to 206 with 78 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail.

Parliament's position adopted at first reading under the ordinary legislative procedure amended the Commission's proposal as follows:

Market-opening: Parliament stressed that the completion of the opening of the Union railway market should be seen as **essential** in order to enable rail to become a credible alternative to other modes of transport in terms of price and quality.

Multimodal and sustainable public transport plans and public service obligations: the Commission proposal provided that competent authorities shall establish and regularly update public passenger transport plans covering all relevant transport modes for the territory for which they are responsible.

Parliament stated that these plans should promote social and territorial cohesion. The requirements for these transport plans **should not go beyond what is necessary**. Detailed requirements should remain at the **discretion of the competent authority** in accordance with the principle of subsidiarity. Transport plans should consist of:

- basic requirements to be fulfilled by public transport offer, including, inter alia, accessibility for persons with disabilities, and modal and intermodal interconnections at main connecting hubs;
- for public rail passenger transport, efficiency criteria including inter alia modal share of public transport, punctuality, cost-efficiency, frequency of services, customer satisfaction and the quality of rolling stock;
- quality and safety standards as well as control aspects regarding the rolling stock, infrastructure and services, including information;
- principles of tariff policy, such as the use of social tariffs;

applicable rules regarding passenger rights, social and employment conditions, environmental protection and the establishment of environmental objectives.

The **specifications** of public service obligations and the related **compensation** of the net financial effect of public service obligations shall achieve the objectives of the public transport plan in a cost-effective manner and shall financially sustain the provision of public passenger transport in the long term.

Volume of public service contracts for rail passenger transport: Parliament asked that the volume of a public service contract for passenger transport by rail which will be awarded on the basis of a competitive tendering procedure should be set in a way that **facilitates competition between small bidders, new**

entrants and the incumbent operator for such contracts while allowing competent authorities some flexibility to optimise the volume according to economic and operational considerations.

The Commission proposed that the volume of public service contracts should not exceed 10 million train-kms or one-third of the total national public rail passenger transport volume under public service contract. Members suggested that this volume should be **from 1 to 4** depending on the volume of the national public rail passenger transport volume under public service contract: (i) does not exceed 20 million train-km; (ii) is between 20 and 100 million train-km; (iii) is between 100 and 200 million train-km; (iv) is over 200 million train-km.

Compulsory content of public service contracts: competent authorities shall make available to all interested parties relevant information for the preparation of an offer under a competitive tender procedure, whilst protecting business secrets

They should require the selected public service operators to grant **staff working conditions on the basis of binding national, regional or local social standards** and/or to implement the compulsory transfer of staff in case of change of operator.

Public service operators would have to comply with the applicable representative collective agreements and ensure decent employment and working conditions regardless of the award procedure.

Award of public service contracts: until the end of the transitional period referred to in Article 8(2), Member States and, if permitted by national law, competent authorities may exclude from competitive tendering procedures for the award of public service contracts by rail organised by the competent authorities in their territory, any railway undertaking or operator or any subsidiary directly or indirectly controlled by a railway undertaking or its holding company under certain specified conditions.

Competent authorities responsible for establishing transport plans should be able to decide to proceed to the **direct award** of public service contracts concerning public rail passenger transport services, subject to certain conditions.

In particular, the public transport plan should contain requirements applicable for the entire duration of the contract concerning the following: (i) evolution of passenger volumes; (ii) punctuality of services; (iii) cost-efficiency in terms of capital productivity; (iv) frequency of train operations; (v) customer satisfaction; (vi) quality of rolling stock.

The competent authority must publish no later than 18 months before the start of the contract how these requirements are to be complied with through the direct award of a public service contract. If a complaint of an interested railway operator or undertaking regarding the direct award of the contract is filed, the regulatory body evaluates the reasons provided by the competent authority and takes a decision no later than two months after the complaint was filed. The duration of such contracts shall not exceed **nine years**.

Transitional arrangements: the award of public service contracts concerning transport by road and other track-based modes such as metro, tramways or tram-train systems should comply with the Regulation from **3 December 2019**.

Public service contracts concerning public passenger transport by rail shall be awarded from 3 December 2022.

By **3 December 2022**, the competent authorities responsible for establishing the public transport plans should be entrusted with all powers necessary for awarding public service contracts.

Public service contracts for public passenger transport by rail that do not comply with the Regulation, directly awarded before 3 December 2022, should in any event expire at the latest 10 years from the entry into force of the Regulation.