

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

2013/0028(COD) - 14/12/2016 - Final act

PURPOSE: to improve the quality of rail passenger transport services and their operational efficiency (fourth railway package).

LEGISLATIVE ACT: Regulation (EU) 2016/2338 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.

CONTENT: the overall objective of this Regulation amending [Regulation \(EC\) No 1370/2007](#) is to improve the quality of rail passenger transport services and to increase their operational efficiency.

The completion of the single European railway area should contribute to the development of rail transport as a credible alternative to other modes of transport, in particular in terms of price and quality.

The Regulation is closely related to the [Directive](#) amending Directive 2012/34/EU on the governance of the railway infrastructure.

The main elements of the amending Regulation are as follows:

Mandatory competitive award for public service contracts: the Regulation lays down common rules on the award of public service contracts for passenger transport by rail, together with accompanying measures to increase the success of competitive tendering procedures. Unless prohibited by national law, the competent authority may decide to award public service contracts for public passenger transport services by rail directly:

- where it considers that the direct award is justified by the relevant **structural and geographical characteristics of the market and network concerned**, and in particular size, demand characteristics, network complexity, technical and geographical isolation and the services covered by the contract, and;
- where such a contract would result in an **improvement in quality of services or cost-efficiency**, or both, compared to the previously awarded public service contract. Where the competent authority decides to award a public service contract directly, it shall lay down measurable, transparent and verifiable performance requirements. Such requirements shall be included in the contract. The **performance requirements** shall in particular cover punctuality of services, frequency of train operations, quality of rolling stock and transport capacity for passengers;
- where their average annual value is estimated at **less than the ceilings** outlined in the Regulation (EUR 7.5 million/year or less than 500 000 kilometres).

Specification of public service obligations (PSOs): the competent authority shall lay down specifications for public service obligations in the provision of public passenger transport services and the scope of their application. This includes the possibility to group cost-covering services with non-cost-covering services. The specifications shall be consistent with the policy objectives stated in public transport policy documents in the Member States.

Access to rolling stock: with a view to launching a competitive tendering procedure, competent authorities shall assess whether measures are necessary to ensure effective and non-discriminatory access to suitable rolling stock. This assessment shall take into account the presence of rolling-stock leasing companies, or of other market actors providing for the leasing of rolling stock, in the relevant market. Competent authorities may decide to take appropriate measures to ensure effective access to suitable rolling stock.

Rights and social standards: in the performance of public service contracts, public service operators shall comply with obligations applicable in the field of social and labour law established by Union law, national law or collective agreements.

Transition period: the competitive tendering of public service contracts will start from **25 December 2023**.

Public service contracts for public passenger transport services by rail directly awarded on the basis of a procedure other than a fair competitive procedure as of 24 December 2017 until 2 December 2019 may continue until their expiry date but shall not exceed 10 years.

ENTRY INTO FORCE: 24.12.2016.