



UITP-EPTO-EMTA POSITION ON THE REVISION OF THE PSO REGULATION

BRUSSELS, 27 JANUARY 2016

UITP (International Association of Public Transport), EMTA (European Metropolitan Transport Authorities) and EPTO (European Passenger Transport Operators) have reviewed their position on the revision of regulation 1370/2007.

From the very beginning of the revision of the PSO Regulation, our associations have always stated their support to this process provided that two basic conditions are observed:

- (i) **In the context of a railway package**, the revision should be strictly limited to what is necessary to open the railway market **without any disruptive impact on urban transport**.
- (ii) The revision should establish the competitive award of public rail passenger transport services as a general principle and strictly allow for a well-defined number of exhaustive and limited possibilities of **direct award** in order to ensure the **highest level of legal certainty**.

These two core conditions are the minimum prerequisites for the revision of the PSO Regulation to contribute to the objectives of the Fourth Railway Package. Compliance with these two major concerns are pivotal for our associations' membership to ensure that this revision of the PSO regulation warrants maximum legal certainty.

Specifically our worries relate to the following elements:

- **No impact on urban transport:**
 - No modification of the definition of "public service obligation": the competent authority should retain the responsibility to define the extent and content of PSOs whilst the control over the use of this competence should be confined to manifest errors¹.
 - No modification of the definition of "competent local authority": such modification would result in large scale reorganization of administrative regions and their transport services with no practical benefit.
 - Public transport plans should not be too detailed: Although public transport plans may in certain contexts constitute an appropriate tool to stimulate debate about local

¹ Our associations are however in favor of the recognition of the network effect which is necessary to preserve the coherence and continuity of public transport networks.

public transport, they should not be too detailed and their objective should remain at policy level.

- Our associations are strongly concerned about any modification of the current social protection regime, including the applicability of Directive 2001/23/EC on transfer of staff and the definition of binding social standards, which would have an impact on urban transport.
- Any modification of the transition period for the opening of rail passenger transport services should not affect urban transport; moreover, the implementation of the provisions should not be further delayed. Our associations will not support any extension of the transition period currently applicable to urban transport.

- **Regarding the opening of the railway market:**

- The addition of numerous opportunities to directly award contracts is a major concern for UITP, EPTO, and EMTA. Our associations especially consider that very broad exemptions involving the use of a discretionary power are likely to lead to inconsistent and perverse interpretations as well as endless legal debate and litigation.
- Should the exemption based on the efficiency assessment remain, it should be controlled independently. A guarantee of this independence should be clearly provided and remedy should be available in case of dispute.
- Our associations urge the triologue negotiators to reduce the implementation timeframe currently proposed considering that it does not provide sufficient legal security and could jeopardise the efficiency of the rail market opening.
- Our associations also consider that competent authorities should support the access of all operators to suitable rolling stock.

UITP, EPTO and EMTA would like to make a strong plea to European institutions to make sure the aforementioned concerns will be adequately observed. Only then, will our associations be in a position to further support the ongoing revision process.

Note:

The International Association of Public Transport (UITP) is a passionate champion of sustainable urban mobility and is the only worldwide network to bring together all public transport stakeholders and all sustainable transport modes. We have 1,300 member companies giving access to 14,000 contacts from 92 countries. Our members are public transport authorities and operators, policy decision-makers, research institutes and the public transport supply and service industry. Visit our website www.uitp.org. Follow us on Twitter: [@UITPpressoffice](https://twitter.com/UITPpressoffice)

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European Metropolitan Transport Authorities (EMTA) is a platform for collaboration and policy exchange of 26 public transport authorities in metropolitan areas and larger cities (including a partner institution in Montreal) transport planning, infrastructure funding and financing and commissioning public transport services. Members have in common the award of public service contracts in (sub-)urban areas and share knowledge, exchange experiences and identify best practices that help to improve the quality of integrated transport services for their users. Visit our website www.emta.com

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EPTO is the association of the **European Passenger Transport Operators**, whose members are the 8 largest public transport Groups in Europe. EPTO promotes the development of a competitive market structure for the supply of public transport services and supports the opening of the passenger transport markets in Europe. For more information see <http://www.epto.net>

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