



# Social Conditions in Urban Public Transport Companies in Europe

## Summary of Findings and Conclusions



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## Summary of findings and conclusions

This document provides a summary of the main findings and conclusions of a study on social conditions in urban public transport companies in Europe.

### 1. Background and aims and objectives of the study

The delivery and quality of UPT services plays a significant role, both in relation to supporting local and regional economic development, the environment and employment opportunities, as well as in ensuring inclusion and the ability of all individuals to participate fully in family life and wider society. Furthermore, in many European cities and towns UPT operators provide for significant local employment. Regulations regarding the provision and award of such services can therefore potentially impact on all these factors.

With regard to employment and social conditions, it is notable that Articles 4(5) and 4(6) of the PSO Regulation offer the option (but do not oblige) for competent authorities, to require public transport operators to meet certain minimum social conditions and service quality criteria or to require a transfer of staff to the new operator within the meaning of Directive 2001/23/EC even if the conditions of the Directive are not fulfilled.

The European social partners in the UPT sector (UITP on the employers' side and ETF on the trade union side) have commissioned this study with the primary goal of gathering information about the market organisation of the sector and the legal framework underpinning it, as well as the setting of employment and working conditions and the role of collective bargaining within this. The study sought to chart how social conditions have evolved over the past 10 years. More specifically, the social partners wanted to understand to which extent Regulation 1370/2007 has played a role with regard to requiring bidders to meet certain social conditions and/or requiring a transfer of staff in case of change of operator as well as the impact this may have had on employment security and working conditions in the sector.

The goals of this study carried out on behalf of ETF and UITP were essentially fourfold. It aimed to:

- describe how urban public transport is organised in the different Member States and how working conditions are determined;
- describe social conditions in urban public transport for a sample of companies personnel and the development over the last ten years;
- describe the impact of direct award and/or tendering for public service contracts in urban public transport on social aspects and the protection of staff, and
- describe the impact of change of operator in urban public transport on social aspects and the protection of staff.

Based on a review of the (limited) scientific literature and other documents at national and transnational level, a survey and interviews of members of ETF and UITP and interviews with individual employers, workers representatives and competent authorities in twelve European Member States (AT, BG, BE, CZ, DE, FI, FR, NL, IE, IT, SE, UK) the following core findings are presented.

### 2. Market organisation of UPT services

#### 2.1 Trends in award processes

Although in most of the capital cities and bigger cities in the majority of Member States direct award of public service contracts continues to be the prevalent awarding procedure, the use of competitive tendering has become more widespread in the award of UPT services (either single lines or whole networks) over the past decade. A number of different factors have acted as drivers for competent authorities to decide to use this form of award (rather than direct awards). These include the national legal framework sometimes requiring tendering but also include economic and political motivations, which are sometimes interlinked. In the context of the greater stringency of public finances, not only

– but increasingly – as a result of the economic crisis, some competent authorities have looked to competitive award processes to obtain greater cost- efficiency and provide effectiveness in the delivery of UPT services. Even where the competitive route has not been chosen, it is notable that public authorities directly awarding contracts to internal operators<sup>1</sup> have also sought such efficiency savings.

Similarly, the belief by some stakeholders in the late 1990s that a push towards competitive tendering was likely to emerge at the European level (in the context of the preparation of the PSO regulation) and the political and regulatory drive in some Member States towards market opening, has also contributed not only to the increasing use of competitive tender award processes, but also other restructuring processes in the sector.

Despite this trend, mainly observed in the bus sector, significant differences remain between and indeed within Member States and by mode of transport. In Belgium, Greece, Ireland and Luxemburg, all urban public transport services by bus are directly awarded to an internal operator. In all other countries, both types of award (tendering and/or direct award) are used for bus services. In practice, in more than 10 Member States, the use of competitive tendering is rather marginal and is mainly used in small to medium sized urban areas. In the UK, Sweden, France (outside Paris), Finland (only Helsinki metropolitan area), Netherlands, Denmark and Norway the use of competitive tendering has already been implemented prior to the adoption of Regulation 1370/2007. The use of competitive tendering has particularly increased in the Netherlands and Finland over the past 10 years and today covers more than 80% of the bus lines. While in Germany most of the competitively awarded contracts date from 2008 and earlier and concern rather regional bus services, most cities award contracts directly to an internal operator (and in many cases are now preparing for first direct award processes in application of Regulation 1370/2007). In Italy the use of competitive tendering has been increasing in the recent years but has not reached such high levels as in the France or the Netherlands.

An exceptional situation can be found in the UK where the majority of urban bus services in England (outside London) Wales and Scotland is provided on a commercial basis (no public service contracts, no exclusive rights nor compensation but application of general rules on financial compensation for maximum tariffs for certain categories of passengers) with exceptionally tendered bus routes that are socially desirable. Commercial bus services are also very common in Germany in regional transport and smaller cities (indeed the legislation includes provisions on the primacy of commercial viable UPT service provisions which is a German context specific situation– so-called “*Eigenwirtschaftliche Verkehre*”). On the other hand, bus services in London are tendered while bus services in Northern Ireland are operated by an internal operator.

Overall (and with the notable exception of France), integrated networks (bus, tram and light rail or metro services) are most likely to be directly awarded to internal operators in larger cities and towns and bus services (particularly in smaller towns) are more likely to be competitively awarded. Most tram or metro services tend to be directly awarded to an internal operator (as part of a network) There are only few examples of tendered tram services, mainly when tram services were newly built – e.g. case study examples of Dublin, the LUAS Network, or part of a tendered network as it is the case in France or Utrecht.

Metro services are rarely tendered, with some exceptions such as Stockholm Metro or in France metro services in the cities Lyon, Lille, Rennes or Rouen.

A specific difference between contracts of tendered bus services and tendered tram/metro services is that rolling stock and infrastructure remain in the ownership of the awarding authority in cases of tram/metro services.

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<sup>1</sup> This also applies to legacy providers in advance of a first round of direct awarding taking place, e.g. in Germany.

## **2.2 Trends in market organisation: key companies active in UPT**

The urban public transport sector is characterised by internal operators in capital and big cities (with notable exception of Nordic countries and of some bigger cities in France). These operators are integrated companies providing for inter-modal transport services, infrastructure services, rolling stock and garage services. The bus services sector is characterised by a number of international companies and a high share of small and medium sized companies. It is also notable that many large companies have created daughter companies (often by purchasing such SMEs) or several medium sized operators merged to become a large company.

Although urban public transport is still characterised by a high number of internal operators but the increasing use of competitive awards has contributed to the entry of a number of international companies onto the market. This is the case for a number of French companies, such as Keolis, Transdev and RATP Dev. Other important European operators are Arriva DB, National Express, Nobina and Abellio (subsidiary of the Dutch rail company NS).

International companies however only have a significant share in 8 Member States (in the 28 Member States analysed); primarily those that have introduced also to a large extent competitive tendering as main form of award. In the majority of Member States they only play a limited role on the UPT market.

For the tram services market Keolis and Transdev are the most important international players in cases where tendering occurs. However, a large majority of urban track bound services (metro, light rail and tram) is run by internal operators and publicly owned companies (such as RATP in Paris) in all EU Member States.

Overall, the trend indicated by interviewees and survey results is that the number (or role) of internal operators has declined over the past 10 years.

## **3. Employment in the sector**

Employment data for the UPT sector alone is difficult to obtain due to the fact that national statistics mostly cover all types of passenger transport including by rail, coach (long-distance) and inter-urban transport.

In Sweden and France an overall increase of staff has been noted which concerns in particular an increase in the number of drivers. While in Finland and the Netherlands overall employment has remained stable it was noted that the number of drivers has slightly increased. In the UK and Belgium the number of employees has remained stable overall, with variations over the past years. In Germany, Italy and Ireland the number of employees in the urban public transport has declined slightly.

The sector is largely male dominated and the share of female workers represents between 8 to 18% among operators studied for this project.

A large majority of workers are employed on permanent and full-time employment contracts. In the Netherlands and Sweden the share of temporary agency workers has increased over recent years.

In most countries, a trend towards the intensification of work has been noted as a result of the numbers of operational staff not keeping pace with increases in passenger numbers; increased traffic congestion and the overall arrangement of working time which have led to the number of driving hours increasing, even in situations where overall working hours have remained the same.

## **4. The use of subcontracting and outsourcing**

The use of subcontracting is an option that a number of competent authorities provide for in tender documents as set out under the PSO Regulation Article 4.7. The use of subcontracting may be related to historic cooperation with small and medium sized private transport companies established in the region of the network. The situation of the use of subcontracting has been further researched to understand if subcontractors follow the same or similar social conditions, why subcontracting is used, and how the use of subcontracting has evolved.

In the majority of cases subcontracting is allowed in a range from 15 to 30%. The exception to this is Belgium where contracts determine that internal operators shall subcontract at least 30% and up to 50% of services (Wallonia and Flanders Region only). In Italy, Germany, Netherlands and Austria, interviewees considered that subcontracting has been increasing over the past 10 years.

In most countries employment conditions among subcontractors are not on a par with those of the main operators due to different company level agreements. Otherwise, in the following countries subcontractors fall under the sector level agreement (the same as for main operators): Finland, Austria, France, the Netherlands (unless it concerns taxi services, or touring coach companies) and Sweden (if signed the sector bargaining agreement). In the case of Belgium, subcontractor's employment conditions are on a par with the main operator due tender documents requiring this from the internal operator. In general, subcontracting seems to be used due to historic cooperation of internal operators with local SMEs. Subcontractors would be mainly active in suburbs or less populated areas, or to provide for flexibility for school children transportation or other specific transport services. Subcontracting is also seen as a mean to deliver services more cost-efficient. This is holds true for direct award and competitive tendering situations.

Also the development of outsourcing has been analysed and to what extent outsourcing trends occurred in the UPT sector. Within the study it has been observed that outsourcing mainly occurs for maintenance (technical), security and vehicle cleaning services. This is a trend that concerns all in-depth countries and internal and private operators alike though not to the same extent. Internal operators still tend to operate a significant part of maintenance services or vehicle cleaning services in-house. Security services are the most common outsourced service. Outsourcing of maintenance (technical) can be a strategic choice in cases of competitive tendering, this has been mentioned in Finland, Sweden and Netherlands.

It was not possible to asses to what extent social conditions differ for outsourced workers as this can strongly depend on professions and the collective bargaining framework. In countries where the nature of the collective bargaining framework means that all such workers are covered by the same agreement, it is ensured that such sub-contracted workers benefit from the same terms and conditions. This cannot be guaranteed in other countries.

## **5. Setting of employment and social conditions in the UPT sector**

Like in all sectors, legislation plays a significant role in setting a minimum baseline for employment and social conditions in the UPT sector. The implementation of EU legislation and national rules have a particular role to play in setting the framework for working hours, health and safety provisions and basic training standards. However, in the urban public transport sector such legislation is mostly enhanced through collective agreements negotiated at the national sectoral, regional or company and branch level. The level and content of collective bargaining is of particular importance in the context of competitive tendering, as it has the potential of setting a floor of rights to be respected by all companies in the sector. This is the case when collective bargaining takes place at the national sectoral level and collective agreements are either universally binding or they are applicable to the majority of operators due to a high organisational density of social partner organisations at the employers' side. However, even where such sectoral collective agreements are in place, it is important to note that the standards set therein often exceeded in some company level collective agreements or company practices, in particular when the sector collective agreement is setting minimum standards. This can have an impact on cases of competitive tendering between companies, as companies would need to compete on the basis different company level agreements, possibly giving the advantage to the company having lower salary standards in place. In particular in cases of tenders for bus services wage levels play an important role, due the fact that this is a labour intensive type of service in which wage costs play an important role. In case of change of operator, staff being employed by the incumbent may lose their acquired terms and conditions should the new operator offer lower terms and conditions. Such an effect can be mitigated by the possibility to require transfer of operational staff (thus terms and conditions transfer) either by law or on request by the competent authority; can be negotiated by social partners or required by tender to install an obligatory pool of workers from which the new operator has to recruit guaranteeing specific terms and

conditions, or the competent authority can request in tender documents a basis for wage calculations (taken from the incumbent or sector level agreements).

Out of the 12 countries studied more in-depth, the following seven countries feature sectoral level agreements: Austria, Finland, France, Germany (only at regional level), Sweden, Italy and the Netherlands. These are either universally applicable (e.g. Austria, Finland, France (outside Paris) and the Netherlands) or binding on the vast majority of operators by virtue of the coverage of sectoral social partner organisations (e.g. Sweden). In some cases these are negotiated at national level, whereas in other they are specific to a region. This is, for example, the case in Germany, where different collective agreements also exist for public and private sector operators in the same region. It shall also be noted that in France, Netherlands and Germany company agreements or company practices may further exceed social standards in sector agreements. For Germany it shall also be taken into account that branch level agreements can differ strongly, e.g. subsidiaries can offer less favourable employment terms and conditions. In Austria, internal operators or public companies still employ an important share of 'civil servant type' employees following a different sector specific collective agreement as other workers in the UPT sector.

In Belgium sectoral collective agreements exist, but at present these are de facto company level agreements for each of the internal operators (in the three regions).

In the Czech Republic and in Bulgaria sector level agreements exist but they set only a general framework for company level bargaining. Thus, in Bulgaria, the Czech Republic, Ireland and the UK the most important level of setting social conditions is the company level.

## **6. Trends in development of social conditions in the UPT sector**

At a first glance, no direct link of the development of social conditions and type of award was discernible. Nevertheless, countries such as Finland and the Netherlands with longer experience of competitive tendering have seen wage increases that have been more favourable compared to countries such as Belgium or Italy for example. However, it should be noted that the countries using competitive tendering have both, binding sector collective agreements and binding provisions on transfer of staff (Netherlands, France, Finland via collective agreement provisions). On the other hand, it shall also be noted that in the majority of company cases analysed not depending on the type of award, work intensification and job insecurity has increased affecting adversely sector attractiveness.

Nevertheless, the fact that no direct link could be found may need to be placed in perspective as in other countries restructuring in the sector may have taken place prior or during the time of analysis impacting on wage developments. Also the impact of restrictions on public finances may have played a more considerable role in some countries and impacted on wage developments.

On the other hand, workers in countries relying more on competitive tenders saw their daily routines and working time organisation shift much more to adapt working hours in order to increase the efficiency of the network, for example in the case of bus services, by shortening turnaround times at terminals., , reducing breaks, prolonging driving times and taking off start and end time preparations from shifts off effective working time.

Nevertheless, these trends have also been remarked in company studies with internal operators. In Germany, for instance, it was considered that preparations for the perceived likelihood of tendering becoming a reality across all UPT services in the early 2000s contributed to such trends. At the same time, greater emphasis on efficiency and public sector savings in all countries have also had an important role to play in this regard.

The trend indicates that for overall weekly working hours, standards did not change as such in most countries. Overtime has been in most cases restricted also for financial considerations. In some cases it was mentioned in interviews, that overtime was decreased by the use of temporary agency workers or in some case subcontractors or outsourcing (e.g. rolling stock provision or maintenance) to reduce costs for overtime. ,



The UK seems somewhat apart. The fact that commercial provision of services does not include any competent authorities to require specific standards or provide for compensation, companies operate at their most efficient economic levels. The sector is characterised by long working hours and low wages (just slightly above the minimum wage). The fact that no sector level agreement exists creates very diverse and company (plant level) specific situations for social conditions.

While a sector assessment in the CEE countries are difficult due to a lack of data, it can be observed that among internal operators in particular in the capital cities, employment conditions seem to be higher than those of operators in the rest of the country.

While wages have strongly increased in CEE countries this has been said to be an effect mainly due to inflation and rise of cost of living standards so that it can be estimated that wage levels have remained rather stable. The fact that there is a sector level agreement though not binding provides still a sector level standard influencing directly company specific negotiations.

On the other hand trends show that training do not go much beyond legal requirements. This trend may have recently changed slightly as competent authorities demand more quality performance criteria in contracts with private but also internal operators. This leads to improved training offers in particular for customer relations and service.

There has been a tendency in some companies over the years to develop work-life balance policies in line with the requests and requirements of staff.

## 7. Current use of social conditions in tendering

Without prejudice to European law, including collective agreements between social partners, and as mentioned above, Articles 4(5) and 4(6) of the PSO Regulation offer the option (but do not oblige) competent authorities to require public service operators to meet certain minimum social conditions or to require a transfer of staff to the new operator within the meaning of Directive 2001/23/EC even if the conditions of the Directive are not fulfilled. This sections looks at the extent to which use has been made of the possibility to formulate social conditions when issuing tenders, whereas the subsequent section assesses provisions with regard to the transfer of staff.

When considering the use of social conditions, it is also important to bear in mind the context of national legislation and collective bargaining. While national legislation has to be adhered to by all bidders, the level of such legal social standards sets minimum provisions such as a legal minimum wage normally not representing the level of working conditions in the urban public transport sector;

The coverage of collective agreements, and the level at which standards in collective agreements are set also has an important role to play in the context of tendering and possible changes of operator. In countries where collective agreements are set at the sectoral level and are binding for the whole sector, the stipulation of social conditions is arguably of more limited relevance if such standards are set at a relatively high level in order to ensure a level playing field for all bidders.

Where no such sectoral collective agreements exist; where they only bind signatory parties (and coverage by social partner is relatively low) and where there is a significant gap between standards set in sectoral collective agreements and in company level agreements, the use of social conditions in tendering would arguably play a more significant role (see also section 5.1.4 above) to create a level playing field among bidders.

The results of the research with regard to the use of social conditions according to the PSO Regulation in award processes (in particular tendering procedures) can be summarised as follows:

- Germany is arguably the only country explicitly making use of the PSO Regulation, Articles 4(5) and 4(6) to set clear social conditions in an effort to prevent social dumping. Specific legislation which exists in 14 out of Germany's 16 regions – the so called laws on compliance with collective agreements (*Tariftreuegesetze*, TTGs) explicitly aim to safeguard social standards. These standards are those of a so-called 'representative collective agreements' of a specific region which bidding companies in a competitive tendering procedures have to comply with. These laws intend to set a level playing field for social aspects among all bidders in public tendering procedures, in particular regarding wage standards. While the

use of social aspects in tendering for German UPT services pre-dates the entry into force of Regulation 1370/2007 for some Federal States (and the inclusion of its key provisions into the Law on Passenger Transport), Articles 4(5) and 4(6) and Recitals 16 and 17 of the regulation are now often quoted in tender processes with reference when using social conditions to select an offer.

- There are very few cases where social conditions have played a role as one of the selection criteria ; the most important criteria are price, technical requirements regarding rolling stock and quality of service provision (punctuality, rolling stock, cleanliness, customer service, training of drivers);
- In countries with universally binding sector collective agreements, competent authorities consider that labour law and sector level collective agreements already provide for appropriate social standards and thus do not specifically mention these in award procedures or request more favourable terms and conditions as set out in sector collective agreements. This rationale may be questionable as in some cases there can be in an important gap between company level employment conditions and those stipulated in sectoral collective agreements. In Austria, for example, it became clear that on the basis of national legislation the competent authority has to carry out a number of checks of bids such as: staff cost offer (is the price offered in conformity with collective agreement) and experience of bus drivers; check on payments of social security contributions and checks on the correct employment of foreign workers;
- In some cases reference may be made to training requirements, qualification of staff, language capabilities and general proof of good standards and capacity of human resource management (including staffing, retention and conflict management) e.g. in France and Austria, sometimes also specific technical requirements for rolling stock in order to provide for health and safety of drivers can be required (e.g. ergonomic seats in the Netherlands). It has also been mentioned that social requirements such as engagement of apprentices or older workers may be requested. However, these cases seem to be the exception for competitive tendering;
- Reference to social conditions (as mentioned above) and human resource management (e.g. performance and reward and productivity requirements) can also be found in contracts awarded directly to an internal operator, here examples were found in Belgium (Wallonia and Flanders) or France.

One of the main issues that remains with regard to social conditions in tendering procedures is enforcement if the competent authority has chosen to make reference to social conditions. This is also one of the issues highlighted in evaluations of the TTGs carried out in Germany.

## **8. Provisions regarding the transfer of staff in cases of change of operator and their impact on the protection of staff**

There are five basic situations in which a transfer of staff currently takes place within the context of a change of operator in urban public transport. Three situations can be legally qualified as 'transfer of staff' while two situations are de facto situations of transfer of staff:

- Transfer of staff is required by national legislation (e.g. transport laws) – this is the case in the Netherlands.
- By national law specific implementation of Directive 2001/23/EC the situation of change of operator after competitive tendering is always considered as transfer of undertaking. This is a national specific implementation extending the scope of the EU Directive on Transfer of Undertakings which does generally not qualify a change of operator after competitive tendering as a transfer of business. This is the case for example in the UK and in France;
- Tender documents require a transfer of rolling stock and assets. As a result, a change of operator is considered to qualify as a transfer of undertakings as foreseen by national rules implementing the EU Directive 2001/23/EC regarding staff transfer in case of transfer of undertakings. As a consequence staff is transferred to the new operator.



Two de-facto situations of transfer of staff:

- Competent authorities can make use of Article 4(5) of the PSO Regulation – either explicitly or implicitly – to require a transfer of staff in the case of a change of operator (no transfer of assets). This situation was found in cases in Germany and in Stockholm
- Transfer of staff is not mandated by the competent authority but can be in practice negotiated between transferor, transferee and relevant trade unions on a case by case basis or can be 'regulated' within a sector collective agreement. Situations of case by case basis negotiations were found in Sweden (outside Stockholm). In Finland, there is a sector collective agreement in place that foresees that in case of change of operator a specific 'transfer unit' is created under the auspices of the public employment service and from which the new operator is limited to recruit staff. At this stage, most of the workers were in practice thus transferred to the new operator or chose to leave the sector and find work elsewhere.

Thus, in four out of 16 countries where information was gathered (France, Finland, the Netherlands and the UK), transfer of staff occurs on the basis of national law or sector collective agreement (Finland) in case of change of operator after tendering. In seven countries (Austria, Denmark, Czech Republic, Hungary, Slovenia, Sweden and Bulgaria) typically no transfer of staff occurs due to the fact that in most cases the change of operator cannot be seen as a transfer of business under national legislation implementing the EU Directive 2001/23/EC on transfer of undertakings (though it may happen depending on the precise content of the award process – in particular if assets are transferred, this is the case for Denmark where this occurs more often) and no other national rules exist for such a situation. In the case of Italy the situation is not clear.

Examples where competent authorities have made reference to Regulation 1370/2007 are rare (e.g. Germany, potentially also Sweden and Italy). Taking into account that up to this moment only very few examples exist from countries where competitive tendering occurs and where transfer of staff is not mandatory it was explained in interviews that the use of this possibility can be considered to be legally complex and technically difficult, potentially making public authorities reluctant to use it.

In Germany, a number of regional authorities are providing guidance to assist in such processes. New legislation only covering the rail sector has recently introduced a 'should' regulation with regard to the requirement for transfer of staff. The option to make this binding for all urban public transport services (albeit originally proposed) was not adopted at the federal level, but is being implemented in regional legislation in Rhineland Palatinate.

In Belgium and Latvia the situation remains unclear but due to the fact that only direct award is currently used it is irrelevant at this stage. This is also the case for bus services in Ireland. This may change in the future and employees have preferred to negotiate with government that transfer of staff would be voluntary for the employees concerned not obligatory with the option to remain with the original employer. This leaves employees a choice as to whether they wish to transfer or not taking into account that tendering would be still marginal if current Irish projects would be implemented (intentions to tender 10% of Dublin bus services). It seems that in countries where a change of operator would not necessarily be considered as a transfer of business thus not automatically triggering a transfer of staff, the Regulation has provided legal clarity and certainty. In France and the UK, a change of operator is considered a transfer of undertaking (transfer of service) in all cases and thus transfer of staff occurs due to national rules.

In the Netherlands, transfer of staff is obligatory due to a provision in the national law regulating the award of concessions in urban public transport.

While in Finland, a change of operator would not be considered a transfer of undertaking requiring transfer of staff, there is however a universally applicable sectoral level agreement requiring the transfer of staff in case of change of operator after tendering.

## 9. Conclusions

The assessment of the organisation of the UPT market in the European Union shows a complex picture relative stability in the nature of operators in some countries and towns and cities and significant change in others, with the increasing entry onto the market of new operators, including large transnational companies which generally have their roots within national (public) operators or were acquired by national operators.

Economic, political and regulatory drivers have contributed to an increasing use in competitive tendering with the goals of achieving the delivery of more cost- efficient, effective and environmentally friendly services. It was not the subject of the study to analyse if those objectives were achieved. Some cases of “municipalisation” have been observed in France.

While the PSO Regulation 1370/2007 does not require the use of competitive tendering, it has provided an impetus contributing to restructuring in the sector in many countries (alongside the other reasons outlined above).

In addition to requirements in national law and collective agreements, the PSO Regulation includes the possibility of using social conditions in tendering, this is not obligatory.

This study has shown that as a result, the use by competent authorities of social conditions and the requirement for the transfer of staff (solely on the basis of the PSO Regulation) is currently limited.

This means that in countries which do not currently have universally applicable sector collective agreements (setting requirements above the minimum standards specified by law) or sector agreements that are binding for the majority of companies in the sector, or any other binding way to secure terms and conditions at the end of a public service contract (e.g. binding transfer of staff), there is no guarantee for employment nor protection of terms and conditions in case of change of operator. This also affects countries where company level agreements significantly improve on such general standards.

The solution adopted in Germany (14 out of 16 regions) of setting representative collective agreements as a reference for wage calculations in tenders could achieve a similar outcome, but it must be noted that in many cases, such representative collective agreements are not those providing the best possible wage and employment standards. Also only one of the 14 Länder recently decided to include a compulsory transfer of staff in regional legislation.

The study highlighted some examples of negative consequences arising in cases where transfer of staff is not prescribed, as incumbent operators struggle to retain staff up to the point of transfer and new operators are sometimes unable to recruit and train sufficient staff to ensure an effective and efficient takeover of the service. In some cases – and particularly in the context of overall driver shortages – this has in some cases led to deteriorating service quality and service cancellations (at least in the short term). On the other side, workers are increasingly exposed to stress situations in such cases of change or possible change of operator not knowing whether they will be re-employed by the new operator and under which terms and conditions.

The evidence gathered by this study does not provide a conclusive picture with regard to the impact of different forms of award on employment conditions and stability or indeed the quality of services delivered.

This is because the factors impacting on trends such as the availability of public budgets to invest in transport infrastructure and services, the regulatory and collective bargaining framework or the overall political decisions taken by Member States or competent authorities in these areas are multi-faceted and interlinked.

Additionally, the evidence gathered by this study is limited due to different circumstances only revealing during the information gathering and analysing phases:

- In several of the analysed countries the timing of the introduction of a new award regime (basically competitive tendering) or the announcement of the use of competitive tendering predates the period analysed, 2004-2014, and thus the impact on working conditions has happened before.

- Countries such as France (outside Paris), Sweden, Netherlands and Finland with more experience/ longer tradition of competitive tendering have both elements in place for socially framing the competitive tendering procedure (universally applicable sector collective bargaining agreement and compulsory transfer of staff). In the UK (in London) only one element exists, transfer of staff, which guarantees continuity of employment and a certain protection of acquired terms and conditions but comparing the level social conditions between UK (London) and the other countries it can be compared that sector level agreements set sector specific minimum terms and conditions limiting competition to the sector specific social standard. None of the countries in the sample with more experience/tradition of competitive tendering did not provide at least for either of the social framing elements of competitive tendering. There are countries in the sample that do not provide for such elements (BG, CZ, DE (for some regions)) but within these countries only a few examples of competitive tendering exist. Thus, the consequences of such a situation cannot be fully assessed.
- The sample included 6 company specific cases and two broader company specific experiences of competitive tendering of urban public transport services and/or a change of operator. Direct award of public service contracts to an internal operator is predominant. Evidence to research effects of competitive tendering with a change of operator is thus limited. Interestingly, some effects on social conditions could be similarly observed among internal operators due to the fact that there is the possibility/choice to tender and the obligation to sign a public service contract according to the PSO Regulation with an internal operator

The study showed that the reduced availability of public sector budgets to invest in transport infrastructure and services and the political and/or economical driven choice for higher cost-efficiency and effectiveness had an adverse impact on working conditions in both awarding regimes, direct award and competitive tendering while the mechanism were different in the different regimes.

It should also be mentioned that a different interpretation of the evidence gathered from the countries and company case studies is possible, depending on the focus:

The trade union side focusses on the mechanism inherent in the competitive tendering procedure, when companies are competing on the basis of the cheapest price offer and neither the legal framework nor the competent authorities in their tender specifications set a level playing field for all competing bidders and prevent from competition on the basis of working conditions in this labour intense sector.

The employers' side focusses on scarcity of public budgets, the need for "doing more with the same amount of money" thus increasing efficiency, improving quality and stimulating innovation. It is the responsibility of competent authorities to define the level and quality of services to be delivered by the companies, independently of the awarding procedure. It is the responsibility of the operator to provide the best suited solutions and propose innovation to better meet passenger needs.

The study therefore serves to highlight the advantages as well as the pitfalls of different regimes, based on specific case study examples which should contribute to wider learning with regard to good practices in ensuring employment security, social standards and service quality.