

Brussels, 29 September 2022

Dear Commissioners,

RE: ETF mandatory conditions for legally accurate EC interpretative guidelines on the PSO Regulation

The European Commission will soon publish its interpretative guidelines for Regulation (EC) 1370/2007 on public passenger transport services by rail and by road, which was amended back in 2016 part of the 4th Railway Package

We are informed that currently the guidelines are subject to Interservice consultation and will most probably be endorsed by the College of Commissioners and published end November early December.

The European Transport Workers' Federation expects the final guidelines to fully reflect the spirit and rule of the aforementioned regulation, and in particular

1. Provide no biased interpretation that favours competitive tendering over direct awarding, as no such prevalence stems from the Regulation itself
2. Provide detailed guidelines on staff transfer and social criteria in case of transfer of undertakings
3. Accurately describe – and correctly guide in relation to - the conditions under which a public service contract may be directly awarded to an internal operator (open-ended list of exceptional circumstances as supposed to restrictive list)
4. Accurately describe – and correctly guide in relation to - the conditions under which competent authorities may directly award a public service contract for rail under exceptional circumstances
5. Accurately describe – and correctly guide in relation to - the conditions under which a competent authority may directly award a public service contract in case of a small contract volume
6. Accurately describe – and correctly guide in relation to - the conditions under which competent authorities may directly award a public service contract for

rail in case of certain structural and geographic characteristics of the market and network and of performance improvements

7. Accurately describe – and correctly guide in relation to - rail services that qualify for the direct award procedure
8. Accurately describe – and correctly guide on – the review of the direct award decisions

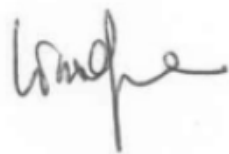
The European Commission non-paper on basis of which the EC organised a sort of stakeholders' consultation earlier this year was misleading, to say in the least, on all aspects listed above. The ETF has been clear that any intention to change Regulation 1370/2007 in its meaning must be done via the ordinary legislative procedure, with the involvement of the European Parliament and the Council.

The ETF calls for the European Parliament and the Member States to support our plea and course of action to safeguard democracy and the spirit of law in the EU.

All further details, supported by a consistent legal analysis can be found in the documents accompanying this letter.

Please feel free to get back to us with further questions, by contacting Cristina Tilling at c.tilling@etf-europe.org

Yours sincerely,



Livia Spera
ETF General Secretary