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European Union

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**LIMITE**

**TRANS 4**  
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## REPORT

From:	General Secretariat
To:	Permanent Representatives Committee (Part 1)
No. prev. doc.:	113146/15 TRANS 333 CODEC 1360
No. Cion doc.:	5960/13 TRANS 35 CODEC 209 5985/13 TRANS 36 CODEC 216
Subject:	4th Railway Package: <ul style="list-style-type: none"><li>• 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.</li><li>- Preparation of an informal trilogue</li></ul>

Delegations will find some Presidency compromise proposals in the fourth column of the table in annex with a view to the upcoming trilogue on 28 January 2016.

**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**

2013/0028 (COD)  
(Text with EEA relevance)

	Commission proposal COM(2013)0028	EP amendments P7_TA(2014)0148	Council general approach ST 12777/15	Remarks/compromise proposal
1.	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION, Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national Parliaments, Having regard to the opinion of the European Economic and Social Committee <sup>1</sup> , Having regard to the opinion of the Committee of the Regions <sup>2</sup> , Acting in accordance with the ordinary legislative procedure, Whereas:			
2.		<b>Amendment 1</b> <b>Recital 1</b>		
3.	(1) Over the past decade, the growth of passenger traffic by rail has been insufficient to increase its modal share in comparison to cars and aviation. The 6% modal share of passenger transport for rail in the European Union has remained fairly stable. Rail passenger services have not kept pace with evolving needs in terms of availability and quality.	(1) Over the past decade, the growth of passenger traffic by rail has been insufficient to increase its modal share in comparison to cars and aviation. The 6% modal share of passenger transport for rail in the European Union has remained fairly stable. Rail passenger services have not kept pace with <i>the evolution of other modes of transport</i> in terms of availability, <i>price</i> and quality. <i>Bearing that in mind, all relevant lessons need to be learnt from the approach adopted by</i>	<i>[Proposed recitals are not examined in the general approach]</i>	

<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

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		<i>the Union in the course of the last three railway reforms.</i>		
4.		<b>Amendment 2 Recital 1a (new)</b>		
5.		<i>(1a) Rail transport plays a major role socially and environmentally, and in terms of mobility planning, and can significantly increase its overall share of European passenger transport. In this regard, investment in research as well as in infrastructure and rolling stock can make a significant contribution to new growth, thereby boosting employment directly in the railway sector and indirectly by increasing the mobility of employees of other sectors. Rail transport has the potential to develop into an important modern branch of Union industry, provided that Member States agree on greater cooperation.</i>		
6.			<b>(1a) A specific objective of this Regulation is to enhance the quality, transparency, efficiency and performance of public passenger transport services by rail.</b>	
7.	(2) The Union market for international passenger transport services by rail has been opened to competition since 2010. In addition, some Member States have opened their domestic passenger services to competition, by			

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	introducing open access rights or tendering for public service contracts or both.			
<b>8.</b>		<b>Amendment 5 Recital 3</b>		
<b>9.</b>	(3) In its White Paper on transport policy of 28 March 2011 <sup>3</sup> the Commission announced its intention to complete the internal railway market, allowing railway undertakings of the Union to provide all types of rail transport services without unnecessary technical and administrative barriers.	(3) In its White Paper on transport policy of 28 March 2011 the Commission announced its intention to complete the internal railway market, allowing railway undertakings of the Union to provide all types of rail transport services without unnecessary technical and administrative barriers. <i><b>In order to better achieve that objective, the current reform needs to be conceived in the light of the railway models which have proved to be effective in the Union.</b></i>		
<b>10.</b>		<b>Amendment 6 Recital 3a (new)</b>		
<b>11.</b>		<i><b>(3a) The quality of public services for rail passenger transport should be improved and their efficiency increased, whilst existing public passenger transport services that function efficiently are maintained.</b></i>		
<b>12.</b>		<b>Amendment 7 Recital 3b (new)</b>		
<b>13.</b>		<i><b>(3b) The completion of the opening of the Union railway market should</b></i>		

<sup>3</sup> White Paper : Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system ; COM(2011)144

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		<i>be considered to be essential in order for the railway to become a credible alternative to other modes of transport, in terms of price and quality.</i>		
14.		<b>Amendment 8 Recital 3c (new)</b>		
15.		<i>(3c) It is essential for the competent authorities to play a key role in the organisation of public passenger transport services. Such authorities have responsibility for planning public passenger transport services, including for identifying the routes to be designated for open access or awarded under public service contracts and for determining the award procedure. Furthermore, they should justify that viability, efficiency and quality targets can only be achieved by using the award procedure that they have chosen, and should publish this justification.</i>		
16.		<b>Amendment 9 Recital 4</b>		
17.	(4) When competent authorities organise their public passenger transport services they need to ensure that public service obligations and the geographical scope of public service contracts are appropriate, necessary and proportionate to achieve the objectives of the public passenger	(4) When competent authorities organise their public passenger transport services they need to ensure that public service obligations and the geographical scope of public service contracts are appropriate, necessary and proportionate to achieve the objectives of the public passenger		

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	transport policy in their territory. This policy should be set out in public transport plans leaving scope for market based transport solutions. The process of defining public transport plans and public service obligations should be made transparent to relevant stakeholders including potential market entrants.	transport policy in their territory. This policy should be set out in <i>sustainable</i> public transport plans leaving scope for market based transport solutions. The process of defining public transport plans and public service obligations should be made transparent to relevant stakeholders including potential market entrants.		
18.			(4a) Public service obligations should be in line with public transport policy. However, this does not entitle the competent authorities to receive a specific amount of funding.	
19.		Amendment 10 Recital 5		
20.	(5) To ensure sound financing to meet the objectives of public transport plans, competent authorities need to design public service obligations to attain public transport objectives in a cost-effective manner taking account of the compensation for the net financial effect of those obligations and they need to ensure long-term financial sustainability of public transport provided under public service contracts.	(5) To ensure sound financing to meet the objectives of <i>sustainable</i> public transport plans, competent authorities need to design public service obligations to attain public transport objectives <i>both in a high-quality and</i> in a cost-effective manner, taking account of the compensation for the net financial effect of those obligations and they need to ensure long-term financial sustainability of public transport provided under public service contracts. <i>That includes avoiding both over- and under-compensation, caused by the substance of the public service</i>		

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		<i>obligations, or the failure of the competent authority to meet its financial commitments. Public service obligations may refer to networks in which some services can be operated with a fair profit without financial compensation; the inclusion of such services within the scope of the public service obligations should not result in compensation payments exceeding the amount necessary for providing the whole range of network services.</i>		
21.	(6) It is particularly important that competent authorities comply with these criteria for public service obligations and the scope of public service contracts if the market for public passenger transport by rail is to run smoothly, because open access transport operations need to be well coordinated with those under public service contract. For this reason, the independent rail regulatory body should ensure that this process is correctly applied and transparent.			
22.			<b>(6a) In order to take into account the diversity of the territorial and political organization of Member States, public service contract may be awarded by a competent authority that is a combination of public authorities. In such</b>	

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			circumstances, clear rules should set the respective roles of each of them in the awarding process of public service contract.	
23.			(6b) Considering the diversity of administrative divisions existing in Member States, in case of contracts for the provision of public passenger transport services by rail directly awarded by a group of local competent authorities as referred to in Article 5(2), the determination of which local authorities are competent regarding the concerned "urban agglomerations" and "rural areas" remains at the discretion of Member States.	
24.		Amendment 64 Recital 7		
25.	(7) A maximum annual volume of a public service contract for passenger transport by rail needs to be set to facilitate competition for such contracts while allowing competent authorities some flexibility to optimise the volume according to economic and operational considerations.	(7) <i>The</i> volume of a public service contract for passenger transport by rail <i>which will be awarded on the basis of a competitive tendering procedure</i> needs to be set <i>in a way that facilitates</i> competition <i>between small bidders, new entrants and the incumbent operator</i> for such contracts while allowing competent authorities some flexibility to optimise the volume according to economic and operational considerations.		
26.			(7a) A recital could be added to clarify the cases that are covered by	



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			<i>Art 5(3a) (bridging contracts by direct awards in exceptional circumstances).</i>	
27.		<b>Amendment 12 Recital 8</b>		
28.	(8) To facilitate the preparation of tenders, and hence enhance competition competent authorities need to ensure that all public service operators interested in making such a submission receive certain information on the transport services and infrastructure covered by the public service contract.	(8) To facilitate the preparation of tenders, and hence enhance competition competent authorities need to ensure that, <b><i>whilst protecting business secrets</i></b> , all public service operators interested in making such a submission receive certain information on the transport services and infrastructure covered by the public service contract <b><i>that prevents them from being deemed to have been discriminated against by the contracting authority with regard to other competitors.</i></b>		
29.	(9) Certain upper limits for the direct award of public service contracts need to be adapted for rail transport to the specific economic conditions under which tender procedures take place in this sector.			
30.			<b>(9a)</b> <i>A recital could be included to clarify that the higher threshold applies to public passenger transport services by rail or to public passenger transport services where rail represents more than 50% of the value of the services in question.</i>	
31.		<b>Amendment 65 Recital 9a (new)</b>		

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32.		<i>(9a) The principle of reciprocity should be applied in order to ensure fair competition and to prevent the misuse of compensation. That principle should apply not only to Member States and companies established in the Union but also to companies from third countries that wish to participate in procurement procedures within the Union.</i>		
33.		<b>Amendment 14 Recital 10</b>		
34.	(10) The establishment of an Internal Market for passenger transport services by rail requires common rules on competitive tendering for public service contracts in this sector to be applied in a harmonised manner in all Member States.	(10) The establishment of an Internal Market for passenger transport services by rail requires common rules on competitive tendering for public service contracts in this sector <b>which are applicable</b> in a harmonised manner in all Member States, <b>whilst taking into account the specific circumstances of each Member State.</b>		
35.		<b>Amendment 16 Recital 11</b>		
36.	(11) In view of creating framework conditions for enabling society to fully reap the benefits of effective opening of the market for domestic passenger transport services by rail it is important that Member States ensure an adequate level of social protection for the staff of public service operators.	(11) <b>With a</b> view <b>to</b> creating framework conditions for enabling society to fully reap the benefits of effective opening of the market for domestic passenger transport services by rail it is important that Member States ensure an adequate level of social protection for the staff of public service operators.		
37.	(12) Where the market does not			

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	ensure it under suitable economic and non-discriminatory conditions, public service operators' access to rail rolling stock needs to be facilitated by competent authorities through adequate and effective measures.			
38.			<i>(12a) A recital could be included to explain that the purpose of the provision on rail rolling stock is to ensure effective competition in the tendering process.</i>	
39.	(13) Certain key features of upcoming tender procedures for public service contracts need to be fully transparent to enable a better organised market response.			
40.		<b>Amendment 66 Recital 14</b>		
41.	(14) Consistent with the internal logic of Regulation (EC) No 1370/2007, it should be made clear that the transitional period until 2 December 2019 refers only to the obligation to organise competitive tendering procedures for public service contracts.	<i>[deleted]</i>		
42.		<b>Amendment 67 Recital 15</b>		
43.	(15) Preparing railway undertakings for mandatory competitive tendering for public service contracts requires some extra time to allow effective and sustainable internal restructuring of	<i>[deleted]</i>		

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	companies to which such contracts were directly awarded in the past. Transitional measures are therefore necessary for contracts directly awarded between the date of entry into force of this Regulation and 3 December 2019.			
44.	(16) Once opening of the market for domestic passenger transport services by rail is achieved, as competent authorities may need to take measures to ensure a high level of competition by limiting the number of contracts that it awards to one railway undertaking, adequate provisions should be provided for.			
45.	(17) In order to ensure uniform conditions for the implementation of Article 5a of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers <sup>4</sup> .	(17) In order to ensure uniform conditions for the implementation of <i>this</i> Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers.		
46.	(18) In the context of amendments to	(18) In the context of amendments to		

<sup>4</sup> OJ L 55, 28.2.2011, p. 13

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	the Regulation (EC) No 994/98 (Enabling Regulation) <sup>5</sup> , the Commission proposed also an amendment of Regulation (EC) No 1370/2007 (COM(2012) 730/3). In order to harmonize the approach to block exemption regulations in the field of State aid and, in accordance with the procedures foreseen in Articles 108(4) and 109 of the Treaty, aid for the coordination of transport or reimbursement for the discharge of certain obligations inherent in the concept of a public service as referred to in Article 93 of the Treaty should be brought under the scope of the Enabling Regulation.	the Regulation (EC) No 994/98 (Enabling Regulation), the Commission proposed also an amendment <i>to</i> Regulation (EC) No 1370/2007 (COM(2012) 730/3). In order to harmonize the approach to block exemption regulations in the field of State aid and, in accordance with the procedures foreseen in Articles 108(4) and 109 of the Treaty, aid for the coordination of transport or reimbursement for the discharge of certain obligations inherent in the concept of a public service as referred to in Article 93 of the Treaty should be brought under the scope of the Enabling Regulation.		
47.	(19) Regulation (EC) No 1370/2007 should therefore be amended accordingly,			
48.				
49.	<i>Article 1</i>		Article 1	
50.		<b>Amendment 17 Article 1 – introductory part</b>		
51.	Regulation (EC) No 1370/2007 is amended as follows:	<b><i>Without prejudice to Directive 2014/25/EU of the European Parliament and of the Council,</i></b>	Regulation (EC) No 1370/2007 is amended as follows:	<u>EP amendment not acceptable</u> <i>This amendment would create legal uncertainty, as Directive</i>

<sup>5</sup> Proposal for a COUNCIL REGULATION amending Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid and Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road, COM(2012) 730 final of 5.12.2012

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		Regulation (EC) No 1370/2007 is hereby amended as follows:		2014/25/EU does not prevail over the PSO Regulation. The PSO Regulation is a <i>lex specialis</i> to Directive 2014/25/EU. Furthermore, there is a large number of other related legislative acts which are applicable and are not mentioned here.
52.		<b>Amendment 18</b> <b>Article 1 – point 1 – point -a (new)</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 2 – point aa (new)</b>		
53.		<i>(-a) The following point is inserted:</i>  <i>‘(aa) ‘public rail passenger transport’ means public passenger transport by rail, excluding passenger transport on other track-based modes, such as metros, tramways or, if Member States so decide , tram-train systems;’;</i>	<b>1. The following point is inserted after point (a) of Article 2:</b>  <b>"(aa) ‘public passenger transport services by rail’ means public passenger transport by rail, excluding passenger transport on other track-based modes, such as metros or tramways".</b>	<u>EP amendment not acceptable</u> <i>This amendment gives the possibility to MS to include tram-train systems or not, thereby creating a definition à la carte. Such definition creates legal uncertainty.</i>
54.	1. a) Point (c) of Article 2 is replaced by the following:	Point (c) is replaced by the following	<i>[deleted]</i>	
55.		<b>Amendment 19</b> <b>Article 1 – point 1 – point a</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 2 – point c</b>		
56.	"(c) "competent local authority" means any competent authority whose geographical area of competence is not national and which covers the transport needs of an urban agglomeration or a rural district;"	‘(c) ‘competent local authority’ means any competent authority whose geographical area of competence is not national and which covers, the transport needs of, <i>inter alia</i> , an urban agglomeration <b>and/or</b> a rural <b>area, or</b>	<i>[deleted]</i>	<u>EP amendment not acceptable</u> <i>The definition in force is already transposed in the MS and the proposed changes are not necessary, nor justified.</i> <i>The addition of the word "inter alia"</i>

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		<i>a region, including at cross-border level;’;</i>		<i>creates legal uncertainty as it opens the possibility of extending the definition of competent local authority too much. What is key is to avoid the risk of abuses in case of a grouping of competent local authorities providing public passenger transport services themselves (pt 125 - Article 5(2) GA).</i>
57.	b) Point (e) of Article 2 is complemented by the following:	In point (e) the following subparagraph is added:	[deleted]	
58.		<b>Amendment 20</b> <b>Article 1 – point 1 – point b</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 2 – point e</b>		
59.	"The scope of public service obligations shall exclude all public transport services that go beyond of what is necessary to reap local, regional or sub-national network effects.	‘The scope of public service obligations shall <b>cover</b> public transport services that <b>are</b> necessary, <b>inter alia, for the benefits of economic, technical or geographical network effects to be reaped at</b> local, regional or sub-national level. <b>Such network effects arise through the integration of transport services, which makes public transport more attractive for passengers and more efficient for the public transport sector. Network effects may be generated both by services which attain break- even and by services which do not, as well as at various</b>	[deleted]	<u>EP amendment not acceptable</u> <i>The impact of the proposed changes is not clear and maintaining the current definitions has allowed to reach a delicate balance between the MS. Definition of network effects is problematic. It is far too prescriptive and impossible to prove ex ante that public transport services are necessary to reap network effects.</i>

	Commission proposal COM(2013)0028	EP amendments P7_TA(2014)0148	Council general approach ST 12777/15	Remarks/compromise proposal
		<i>geographical-, train schedule- or tariff- levels. '.</i>		
60.	2. The following Article 2a is inserted:		2.The following Article 2a is inserted:	
61.	"Article 2a		"Article 2a	
62.		<b>Amendment 21</b> <b>Article 1 – point 2</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 2a – Title</b>		
63.	Public transport plans and public service obligations	<i>Multimodal and sustainable</i> public transport plans and public service obligations	<b>Specification of</b> public service obligations	<i>See comments on AM 22.</i>
64.		<b>Amendment 22</b> <b>Article 1 – point 2</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 2a – paragraph 1 – subparagraph 1 – introductory part</b>		
65.	1. Competent authorities shall establish and regularly update public passenger transport plans covering all relevant transport modes for the territory for which they are responsible. These public transport plans shall define the objectives of public transport policy and the means to implement them covering all relevant transport modes for the territory for which they are responsible. They shall at least include:	1. Competent authorities shall establish and regularly update <i>multimodal</i> public passenger transport plans covering all relevant transport modes for the territory for which they are responsible. These public transport plans shall define the objectives of public transport policy and the means to implement them covering all relevant transport modes for the territory for which they are responsible, <i>thereby promoting social and territorial cohesion. It shall be possible for those plans to consist of information on public transport plans that already exists in the public</i>	<b>1. The competent authority shall define specifications for public service obligations in public passenger transport and the scope of their application in accordance with Article 2(e).</b>  <b>Those specifications shall be consistent with the objectives of public transport policy.</b>	<u>EP amendment not acceptable</u> <i>The requirement of public transport plans that are regularly updated by the competent authorities is considered highly disproportionate in terms of the administrative burden and the expected benefits.</i> <i>- Such a requirement would go against the principle of subsidiarity, as it is up to each MS to decide the most appropriate format/content of such national transport plans.</i> <i>- Furthermore, the MS eligible for cohesion funding are already requested to produce similar plans.</i> <i>- Such provision could constitute the</i>



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		<p><i>domain. Where interregional services already exist, they shall be taken into account. Those plans shall at least include:</i></p>		<p><i>legal basis for an applicant challenging the award decision before the national courts, as such an unsuccessful applicant could argue that the PSC is not perfectly in line with the public transport plans (which are, by essence, evolving over time to meet the users' needs).</i></p> <p><i>- Finally, where a number of different competent authorities are cooperating and/or in federally organised MS, there are additional difficulties in applying such a requirement.</i></p> <p><i>MS wish to use documents existing in the MS, and not involving the creation of new documents. Their format and content should not be prescriptive.</i></p> <p><i>The Presidency believes that the following compromise proposal is appropriate to correctly reflect the diversity in approach of MS.</i></p> <p><u>Presidency compromise proposal</u></p> <p>1. The competent authority shall define specifications for public service obligations in public passenger transport and the scope of their application in accordance with Article 2(e).</p>

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				<p>When defining those specifications and the scope of their application, the competent authority shall duly respect the principle of proportionality. This includes the possibility to group cost-covering services with not cost-covering services.</p> <p><del>These</del> The specifications shall be consistent with the <b>policy</b> objectives of public transport policy as stated in public transport policy documents in the Member States. The content and format of such documents shall be determined in accordance with national law.</p> <p>NB: the Presidency is willing to offer this compromise proposal to the EP provided that the EP withdraws its AM 69 (pt 102).</p>
66.	(a) the structure of the network or routes;		[deleted]	
67.		<b>Amendment 23</b> <b>Article 1 – point 2</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 2a – paragraph 1 – subparagraph 1 – point b</b>		
68.	(b) basic requirements to be fulfilled by public transport offer such as accessibility, territorial connectivity, security, modal and intermodal	(b) basic requirements to be fulfilled by public transport offer, <i>including, inter alia, accessibility for persons with disabilities, and</i> modal and	[deleted]	See comments on AM 22.

	<b>Commission proposal COM(2013)0028</b>	<b>EP amendments P7_TA(2014)0148</b>	<b>Council general approach ST 12777/15</b>	<b>Remarks/compromise proposal</b>
	interconnections at main connecting hubs, offer characteristics such as times of operation, frequency of services and minimum degree of capacity utilisation;	intermodal interconnections at main connecting <i>hubs</i> ;		
69.		<b>Amendment 24</b> <b>Article 1 – point 2</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 2a – paragraph 1 – subparagraph 1 – point ba (new)</b>		
70.		<i>(ba) 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;</i>		<i>See comments on AM 22.</i>
71.		<b>Amendment 25</b> <b>Article 1 – point 2</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 2a – paragraph 1 – subparagraph 1 - point c</b>		
72.	(c) quality standards related to items such as equipment features of stops and of rolling stock, punctuality and reliability, cleanliness, customer service and information, complaint handling and redress, monitoring of service quality;	(c) quality <i>and safety</i> standards <i>as well as control aspects regarding the</i> rolling stock, <i>infrastructure and services, including information</i> ;	<i>[deleted]</i>	<i>See comments on AM 22.</i>
73.		<b>Amendment 26</b> <b>Article 1 – point 2</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 2a – paragraph 1 –</b>		

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		<b>subparagraph 1 – point d</b>		
74.	(d) principles of tariff policy;	(d) principles of tariff policy, <i>such as the use of social tariffs;</i>	<i>[deleted]</i>	<i>See comments on AM 22.</i>
75.		<b>Amendment 27 Article 1 – point 2 Regulation (EC) No 1370/2007 Article 2a – paragraph 1 – subparagraph 1 – point e</b>		
76.	(e) operational requirements such as transport of bicycles, traffic management, contingency plan in case of disturbances.	<i>(e) applicable rules regarding passenger rights, social and employment conditions, environmental protection and the establishment of environmental objectives.</i>	<i>[deleted]</i>	<i>See comments on AM 22.</i>
77.		<b>Amendment 28 Article 1 – point 2 Regulation (EC) No 1370/2007 Article 2a – paragraph 1 – subparagraph 2</b>		
78.	In establishing public transport plans, competent authorities shall have regard in particular to applicable rules regarding passenger rights, social, employment and environmental protection.	<i>[deleted]</i>	<i>[deleted]</i>	<i>See comments on AM 22.</i>
79.		<b>Amendment 29 Article 1 – point 2 Regulation (EC) No 1370/2007 Article 2a – paragraph 1 – subparagraph 3</b>		
80.	The competent authorities shall adopt the public transport plans after consultation of relevant stakeholders	The competent authorities shall adopt the public transport plans after consultation of relevant stakeholders,	<i>[deleted]</i>	<i>See comments on AM 22.</i>  <i>Consultation also in AM 35 (pt 98)</i>

	<b>Commission proposal COM(2013)0028</b>	<b>EP amendments P7_TA(2014)0148</b>	<b>Council general approach ST 12777/15</b>	<b>Remarks/compromise proposal</b>
	and publish them. For the purpose of this Regulation, relevant stakeholders to be taken into consideration are at least transport operators, infrastructure managers if appropriate, and representative passenger and employee organisations.	<i>including</i> at least transport operators, infrastructure <i>managers and</i> representative passenger and employee organisations, <i>and shall publish those plans.</i>		
81.	2. The establishment of public service obligations and the award of public service contracts shall be consistent with the applicable public transport plans.		[deleted]	
82.	3. The specifications of public service obligations for public passenger transport and the scope of their application shall be established as follows:		2. The specifications of public service obligations <b>and the related compensation of the net financial effect of public service obligations shall:</b>	
83.	(a) they shall be defined in accordance with Article 2 (e);		(a) <b>achieve the objectives of the public transport policy in a cost-effective manner. This includes the possibility to group cost-covering services with not cost-covering services;</b>	<u>Presidency compromise proposal</u> (a) achieve the objectives of the public transport policy in a cost-effective manner. <del>This includes the possibility to group cost-covering services with not cost-covering services;</del>  NB: deleted part is included in pt 65
84.		<b>Amendment 30 Article 1 – point 2 Regulation (EC) No 1370/2007 Article 2a – paragraph 3 – subparagraph 1 – point b</b>		
85.	(b) they shall be appropriate to achieve the objectives of the public	(b) they shall be appropriate to achieve the objectives of the public	(b) <b>financially sustain the provision of public passenger</b>	<i>See comments on AM 22.</i>

	Commission proposal COM(2013)0028	EP amendments P7_TA(2014)0148	Council general approach ST 12777/15	Remarks/compromise proposal
	transport plan;	transport plan, <i>i.e. they shall determine the award procedure in terms of quality standards to be achieved and the appropriate means of doing so, in order to meet the objectives of the public transport plan;</i>	transport in accordance to the requirements laid down in the public transport policy in the long term."	
86.		Amendment 31 Article 1 – point 2 Regulation (EC) No 1370/2007 Article 2a – paragraph 3 – subparagraph 1 – point c		
87.	(c) they shall not exceed what is necessary and proportionate to achieve the objectives of the public transport plan.	(c) they shall <i>be</i> necessary and proportionate to achieve the objectives of the public transport <i>plans and, in respect of public passenger transport by rail, they shall take into account Directive 2012/34/EU of the European Parliament and of the Council<sup>1a</sup>.</i>  <i><sup>1a</sup> Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012, p. 32).</i>	[deleted]	See comments on AM 22.
88.		Amendment 32 Article 1 – point 2 Regulation (EC) No 1370/2007 Article 2a – paragraph 3 – subparagraph 2		
89.	The assessment of appropriateness	[deleted]	[deleted]	See comments on AM 22.

	<b>Commission proposal COM(2013)0028</b>	<b>EP amendments P7_TA(2014)0148</b>	<b>Council general approach ST 12777/15</b>	<b>Remarks/compromise proposal</b>
	referred to in point (b) shall take into account whether a public intervention in the provision of passenger transport is a suitable means of achieving the objectives of the public transport plans.			
<b>90.</b>		<b>Amendment 33 Article 1 – point 2 Regulation (EC) No 1370/2007 Article 2a – paragraph 3 – subparagraph 3</b>		
<b>91.</b>	For public passenger transport by rail the assessment of necessity and proportionality referred to in point (c) shall take into account the transport services provided under Article 10(2) of Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (recast) <sup>6</sup> and consider all information given to the infrastructure managers and regulatory bodies pursuant to the first sentence of Article 38(4) of that Directive.	<i>[deleted]</i>	<i>[deleted]</i>	<i>See comments on AM 22.</i>
<b>92.</b>		<b>Amendment 34 Article 1 – point 2 Regulation (EC) No 1370/2007 Article 2a – paragraph 4</b>		
<b>93.</b>	4. The specifications of public service obligations and the related	The specifications of public service obligations and the related	<i>[deleted]</i>	<i>See comments on AM 22.</i>

<sup>6</sup> OJ L 343 of 14.12.2012, p. 32

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	compensation of the net financial effect of public service obligations shall:	compensation of the net financial effect of public service obligations shall achieve the objectives of the public transport plan in <i>a</i> cost-effective manner <i>and shall</i> financially sustain the provision of public passenger transport in the long term.		
94.	(a) achieve the objectives of the public transport plan in the most cost-effective manner;	<i>[deleted]</i>	<i>[deleted]</i>	
95.	(b) financially sustain the provision of public passenger transport in accordance to the requirements laid down in the public transport plan in the long term.	<i>[deleted]</i>	<i>[deleted]</i>	
96.	5. When preparing the specifications, the competent authority shall set out the draft specifications of public service obligations and their scope, the basic steps of the assessment of their compliance with the requirements laid down in paragraphs 2, 3 and 4, and the results of the assessment.		<i>[deleted]</i>	
97.		<b>Amendment 35</b> <b>Article 1 – point 2</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 2a – paragraph 5 – subparagraph 2</b>		
98.	The competent authority shall in an appropriate manner consult relevant stakeholders such as a minimum, transport operators, infrastructure	The competent authority <i>shall consult</i> relevant stakeholders such <i>as transport</i> operators, infrastructure <i>managers and</i> representative	<i>[deleted]</i>	See comments on AM 22.  Consultation also in AM 29 (pt 80)



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	managers if appropriate and representative passenger and employee organisations on these specifications and take their positions into consideration.	passenger and employee organisations on these specifications and take their positions into consideration.		
99.	6. For public passenger transport by rail:		<i>[deleted]</i>	
100.		<b>Amendment 36 Article 1 – point 2 Regulation (EC) No 1370/2007 Article 2a – paragraph 6 – point a</b>		
101.	(a) compliance of the assessment and of the procedure set out in this Article shall be ensured by the regulatory body referred to in Art 55 of Directive 2012/34/EU including on its own initiative.	(a) compliance of the assessment and of the procedure set out in this Article shall be ensured by the regulatory body referred to in <i>Article</i> 55 of Directive 2012/34/EU <i>at the request of any stakeholder concerned;</i>	<i>[deleted]</i>	<i>See comments on AM 22.</i>
102.		<b>Amendment 69 Article 1 – point 2 Regulation (EC) No 1370/2007 Article 2a – paragraph 6 – point b</b>		
103.	(b) the maximum annual volume of a public service contract in terms of train-km shall be the higher value of either 10 million train-km or one third of the total national public rail passenger transport volume under public service contract."	<i>(b) the minimum number of public service contracts for rail transport in a Member State shall be:</i>  <i>– one, in the case of a national market volume of rail passenger transport under public service contract of up to 20 million train-km;</i>  <i>– two in the case of a national market volume of rail passenger transport under public service</i>	<i>[deleted]</i>	EP AM covered in Presidency compromise proposal in pt 65, thereby providing a legal basis for intervention against possible abuses.  <i>Purpose of the amendment is to introduce a limit on the volume of a public service contract (see also AM 64 - pt 25). This can have as a result that existing networks that are highly interlinked and efficient and that are</i>

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		<p><i>contract of more than 20 million train-km and up to 100 million train-km, on condition that the size of one contract does not exceed 75% of the total market volume under public service contracts;</i></p> <p><i>– three in the case of a national market volume of rail passenger transport under public service contract of more than 100 million train-km and up to 200 million train-km, on condition that the size of one contract does not exceed 75% of the total market volume under public service contracts;</i></p> <p><i>– four in the case of a national market volume of rail passenger transport under public service contract of more than 200 million train-km, on condition that the size of one contract does not exceed 50% of the total market volume under public service contracts.</i></p>		<p><i>covered by one public service contract have to be divided into two or three public service contracts. This would not contribute to the efficiency of the network and would bring additional costs. It should be left to the MS to decide on the volume of their public service contract. If the approach of the competent authority in this respect leads to possible abuses, it will be sanctioned by the judge anyway. It should also be noted that given the safeguard in Article 5(2) (pt 125), the risk of abuses is extremely limited.</i></p>
104.		<p><b>Amendment 38</b>  <b>Article 1 – point 2</b>  <b>Regulation (EC) No 1370/2007</b>  <b>Article 2a – paragraph 6 – point ba (new)</b></p>		
105.		<p><i>(ba) The competent authority shall determine the routes to be awarded</i></p>		<p><u>EP AM not acceptable</u>  <i>The determination of routes under a</i></p>

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		<i>under public service contracts in accordance with Directive 2012/34/EU.</i>		<i>PSC is not a discretionary choice by the competent authorities. It should be justified by necessity and proportionality. The EP AM mixes two issues: - how to ensure and adequate scope for PSO - how to ensure open access</i>
106.	3. Article 4 is amended as follows:		3. Article 4 is amended as follows:	
107.	(a) In paragraph 1, point (a) is replaced by the following:		(0a) In paragraph 1, point (a) is replaced by the following:	
108.		<b>Amendment 39</b> <b>Article 1 – point 3 – point a</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 4 – paragraph 1 – point a</b>		
109.	"(a) clearly define the public service obligations laid down in Article 2(e) and Article 2a with which the public service operator is to comply, and the geographical areas concerned;"	"(a) clearly define the public service obligations laid down in Article 2(e) and Article 2a with which the public service operator is to comply, and the <i>transport networks</i> concerned, <i>and require the operator to provide the competent authority with all the information essential for the award of public service contracts, whilst protecting business secrets;</i> "	"(a) clearly define the public service obligations laid down in Article 2(e) and Article 2a with which the public service operator is to comply, and the geographical areas concerned;"	<i>EP AM is best placed in pt 120</i>
110.	(b) The last sentence of paragraph 1, point (b) is replaced by the following:		(a) The last sentence of paragraph 1, point (b) is replaced by the following:	
111.		<b>Amendment 40</b> <b>Article 1 – point 3 – point b</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 4 – paragraph 1 – point b – last sentence</b>		

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112.	"In the case of public service contracts not awarded according to Article 5(3), these parameters shall be determined in such a way that no compensation payment may exceed the amount required to cover the net financial effect on costs incurred and revenues generated in discharging the public service obligations, taking account of revenue relating thereto kept by the public service operator and a reasonable profit;"	'In the case of public service contracts not awarded according to Article 5(3), these parameters shall be determined in such a way <i>that compensation shall neither exceed nor fall below</i> the amount required to cover the net financial effect on costs incurred and revenues generated in discharging the public service obligations, taking account of revenue relating thereto kept by the public service operator and a reasonable profit;';	"In the case of public service contracts not awarded according to Article 5(1) or (3), these parameters shall be determined in such a way that no compensation payment may exceed the amount required to cover the net financial effect on costs incurred and revenues generated in discharging the public service obligations, taking account of revenue relating thereto kept by the public service operator and a reasonable profit;"	Council position is in line with COM proposal.  Presidency is of the view that the EP AM on <u>under-compensation</u> could have the following undesirable effect: if the problem is avoiding an insufficient amount of compensation to cover costs linked to the PSO, the EP AM would restrict the power of the competent authorities to incentivise the operator to limit the costs for providing the service or to prevent generation of unnecessary or artificial costs (efficiency promotion schemes).
113.		<b>Amendment 41</b> <b>Article 1 – point 3 – point ba (new)</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 4 – paragraph 5</b>		
114.	<i>[Art 4(5) of Regulation 1370/2007 wasn't modified by the Commission proposal – only by the EP]</i> <i>[ORIGINAL WORDING of Regulation 1370/2007:]</i> 5. Without prejudice to national and Community law, including collective agreements between social partners, competent authorities may require the selected public service operator to grant staff previously taken on to provide services the rights to which	<i>(ba) Paragraph 5 is replaced by the following:</i>  ‘5. Without prejudice to national and <b>Union</b> law, including <b>representative</b> collective agreements between social partners, competent authorities <b>shall</b> require the selected public service operator to grant staff <b>working conditions on the basis of binding national, regional or local social standards and/or to implement the</b>		<u>Presidency compromise proposal:</u> Inclusion of three recitals to cover the EP concerns outlines in AM 41 and 42  <b>"In order to ensure that the provision of rail services occurs under socially acceptable conditions, public service operators operating rail services should apply all binding Union social standards. Furthermore,</b>

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	they would have been entitled if there had been a transfer within the meaning of Directive 2001/23/EC. Where competent authorities require public service operators to comply with certain social standards, tender documents and public service contracts shall list the staff concerned and give transparent details of their contractual rights and the conditions under which employees are deemed to be linked to the services.]	<i>compulsory transfer of staff in case of change of operator. When such transfer occurs, the staff</i> previously taken on <i>by the previous operator</i> to provide services <i>shall be granted</i> the <i>same</i> rights to which they would have been entitled if there had been a transfer within the meaning of Directive 2001/23/EC. Where competent authorities require public service operators to comply with certain social standards, tender documents and public service contracts shall list the staff concerned and give <i>transparently</i> details of their contractual rights and the conditions under which employees are deemed to be linked to the services.‘;		they should apply the standards in force in the Member State where the public service contract is awarded"  "Where a transfer of staff takes place within the meaning of Directive 2001/23/EC, that Directive applies to the workers concerned by such transfer."  “With a view to safeguarding employees' rights, competent authorities are encouraged to examine the need for appropriate measures.”  NB: Agreed wording from Directive 2001/23/EC is used in this recital.
115.	(c) Paragraph 6 is replaced by the following:		(b) Paragraph 6 is replaced by the following:	
116.		<b>Amendment 42</b> <b>Article 1 – point 3 – point c</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 4 – paragraph 6</b>		
117.	"Where competent authorities, in accordance with national law, require public service operators to comply with certain quality and social standards or establish social and qualitative criteria, these standards and criteria shall be included in the	‘6. <i>In accordance with national law, the</i> competent authorities <i>shall set binding</i> quality and social standards, <i>lay down appropriate</i> social and qualitative criteria, <i>including the obligation of public service operators to comply with the applicable</i>	"6. Where competent authorities, in accordance with national law, require public service operators to comply with certain quality and social standards or establish social and qualitative criteria, these standards and criteria shall be included in the	GA text on paragraph 6 to be kept (identical to COM proposal) + see <u>Presidency compromise proposal</u> in line 114

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	tender documents and in the public service contracts."	<i>representative collective agreements and ensure decent employment and working conditions, including them or make reference thereto</i> in the tender documents and in the public service contracts, <i>regardless of the award procedure.</i> ;	tender documents and in the public service contracts."	
118.	(d) The following paragraph 8 is added:		(c) The following paragraph 8 is added:	
119.		<b>Amendment 43</b> <b>Article 1 – point 3 – point d</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 4 – paragraph 8</b>		
120.	"8. Competent authorities shall make available to all interested parties relevant information for the preparation of an offer under a competitive tender procedure. This shall include information on passenger demand, fares, costs and revenues related to the public passenger transport covered by the tender and details of the infrastructure specifications relevant for the operation of the required vehicles or rolling stock to enable them to draft well informed business plans. Rail infrastructure managers shall support competent authorities in providing all relevant infrastructure specifications. Non-compliance with the provisions set out above shall be subject to the legal review provided for in Article	"8. Competent authorities shall make available to all interested parties relevant information for the preparation of an offer under a competitive tender procedure, <i>whilst protecting business secrets</i> . This shall include information on passenger demand, fares, costs and revenues related to the public passenger transport covered by the tender and details of the infrastructure specifications relevant for the operation of the required vehicles or rolling stock to enable them to draft well informed business plans. Rail infrastructure managers shall support competent authorities in providing all relevant infrastructure specifications. Non-compliance with the provisions set out above shall be subject to the	"8. Competent authorities shall make available to all interested parties relevant information for the preparation of an offer under a competitive tender procedure <b>while taking into consideration the legitimate protection of confidential business information</b> . This shall include information on passenger demand, fares, costs and revenues related to the public passenger transport covered by the tender and details of the infrastructure specifications relevant for the operation of the required vehicles or rolling stock to enable them to draft well informed business plans. Rail infrastructure managers shall support competent authorities in providing all relevant infrastructure specifications.	EP wishes to extend the protection of confidential business information to other transport services covered by this Regulation.  <u>Presidency compromise proposal</u> "8. <b>Public service contracts and general rules shall require the operator to provide the competent authority with the information essential for the award of public service contracts, while <del>taking into consideration</del> ensuring the legitimate protection of confidential business information.</b> Competent authorities shall make available to all interested parties relevant information, <b>where that information exists</b> , for the preparation of an offer under a

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	5(7)."	legal review provided for in Article 5(7).‘.	Non-compliance with the provisions set out above shall be subject to the legal review provided for in Article 5(7)."	competitive tender procedure <b>while <del>taking into consideration</del> ensuring the legitimate protection of confidential business information.</b> This shall include information on passenger demand, fares, costs and revenues related to the public passenger transport covered by the tender and details of the infrastructure specifications relevant for the operation of the required vehicles or rolling stock to enable them to draft well informed business plans. Rail infrastructure managers shall support competent authorities in providing all relevant infrastructure specifications. Non-compliance with the provisions set out above shall be subject to the legal review provided for in Article 5(7)."  <i>NB: AM 39 (pt 109) included here</i>
121.	4. Article 5 is amended as follows:		4. Article 5 is amended as follows:	
122.		<b>Amendment 44</b> <b>Article 1 – point 4 – point –a (new)</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 5 – paragraph 1a (new)</b>		
123.		<i>(-a) The following paragraph is inserted:</i>  <i>‘1a. Any competent authority, whether it is an individual authority</i>		<u>EP AM not acceptable</u> <i>AM introduces the possibility for a group of competent authorities, including from different MS, to award public service contracts. This</i>

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		<i>or a group of authorities, including from more than one Member State, shall be entitled to award public service contracts in accordance with the rules laid down in this Regulation.‘;</i>		<i>possibility is already provided for in the definition of "competent authority" set out in Article 2(b).</i>  <i>This AM is not in line with the subsidiarity principle. It shall remain in the competence of the MS to determine the competent authorities. It also creates legal uncertainty ("shall be entitled").</i>
124.	<i>[The first sentence of Art 5(2) of Regulation 1370/2007 wasn't modified by the Commission proposal – only by the CSL]</i>		<b>(0a) The first sentence of paragraph 2 is replaced by the following:</b>	
125.	<i>[ORIGINAL WORDING of Regulation 1370/2007:]</i> Unless prohibited by national law, any competent local authority, whether or not it is an individual authority or a group of authorities providing integrated public passenger transport services, may decide to provide public passenger transport services itself or to award public service contracts directly to a legally distinct entity over which the competent local authority, or in the case of a group of authorities at least one competent local authority, exercises control similar to that exercised over its own departments.		"Unless prohibited by national law, any competent local authority, whether or not it is an individual authority or a group of authorities providing integrated public passenger transport services may decide to provide public passenger transport services itself or to award public service contracts directly to a legally distinct entity over which the competent local authority, or, in the case of a group of authorities at least one competent local authority, exercises control similar to that exercised over its own departments.  <b>In case of public service in rail transport, the group of authorities referred to in the previous</b>	



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			subparagraph may be composed only of local competent authorities whose geographical area of competence is not national. The public passenger transport service or the public service contract referred to in the previous subparagraph may only cover the transport needs of urban agglomerations and/or rural areas."	
126.			(0aa) In Article 5(3), the words "specified in paragraphs 4, 5 and 6" are replaced by the words "specified in paragraphs 3a, 4, 4a, 5 and 6".	
127.			(0b) The following paragraph 3a is added:	
128.		<b>Amendment 68</b> <b>Article 1 – point 4 – point -aa (new)</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 5 – paragraphs 3a and 3b</b>		
129.		<i>(-aa) The following paragraphs are inserted:</i>  <i>'3a. 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 pursuant</i>	<b>"3a. Unless prohibited by national law, for public service contracts for rail transport awarded on the basis of a competitive tendering procedure, the competent authority may decide to temporarily award new contracts directly where the competent authority considers that the direct award is justified by exceptional circumstances. Such exceptional circumstances shall include situations where:</b>	<u>Presidency compromise proposal</u> "3a. Unless prohibited by national law, for public service contracts for rail transport awarded on the basis of a competitive tendering procedure, the competent authority may decide to temporarily award new contracts directly where the competent authority considers that the direct award is justified by exceptional circumstances. Such exceptional circumstances shall include

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		<p><i>to paragraph 3 of this Article, any railway undertaking or operator or any subsidiary directly or indirectly controlled by a railway undertaking or its holding company if the controlling railway undertaking, the controlling holding company or their subsidiaries:</i></p> <p><i>(a) are licensed and operating domestic rail services in a Member State in which the competent authorities are not permitted to award public service contracts through competitive tendering procedures, and</i></p> <p><i>(b) have benefitted from directly awarded public service contracts by rail the share of which in terms of value is higher than 50% of the total value of all public service contracts by rail awarded to that railway undertaking or holding company or their subsidiaries.</i></p> <p><i>For the purposes of this paragraph, ‘control’ means any rights, contracts or other means which, either separately or in combination, and having regard to any relevant considerations of fact or law, provide the opportunity to exert a decisive</i></p>	<p><b>- the quality and number of bids are deemed to be insufficient to guarantee good value for money, or</b></p> <p><b>- there are a number of competitive tenders already being run by the competent authority and/or other competent authorities which could affect the number and quality of bids likely to be received if the contract is competitively tendered, or</b></p> <p><b>- changes to the scope of one or more public service contracts are required in order to optimise the provision of public services.</b></p> <p><b>The competent authority shall issue a substantiated decision and shall inform the Commission thereof without undue delay.</b></p> <p><b>Contracts awarded pursuant to this paragraph shall not exceed 7 years.</b></p> <p><b>Contracts awarded in accordance with this paragraph shall be published, while taking into consideration the legitimate protection of confidential business information and commercial</b></p>	<p>situations where:</p> <p><del>the quality and number of bids are deemed to be insufficient to guarantee good value for money, or</del></p> <p>- there are a number of competitive tenders already being run by the competent authority and/or other competent authorities which could affect the number and quality of bids likely to be received if the contract is competitively tendered, or</p> <p>- changes to the scope of one or more public service contracts are required in order to optimise the provision of public services.</p> <p>The competent authority shall issue a substantiated decision and shall inform the Commission thereof without undue delay.</p> <p>Contracts awarded pursuant to this paragraph shall not exceed <del>7</del> <b>5</b> years.</p> <p>Contracts awarded in accordance with this paragraph shall be published, while taking into consideration the legitimate protection of confidential business</p>

	Commission proposal COM(2013)0028	EP amendments P7_TA(2014)0148	Council general approach ST 12777/15	Remarks/compromise proposal
		<p><i>influence on an undertaking, in particular through:</i></p> <p><i>(a) ownership or the right to use all or part of the assets of an undertaking;</i></p> <p><i>(b) rights or contracts which confer the right to exert a decisive influence on the composition, voting or deliberations of the social organs of that undertaking.</i></p>	<p>interests."</p>	<p>information and commercial interests."</p> <p>Presidency compromise proposal (recital):</p> <p><b>"In exceptional circumstances where public service contracts for rail transport are awarded on the basis of competitive tendering, new contracts may temporarily be directly awarded in order to ensure that services are delivered in the most cost-effective way.'</b></p>
130.			(0c) The following paragraph 3b is added:	
131.		<p><i>3b. Member States and, if permitted by national law, competent authorities may exclude from the competitive tendering procedures any operator or undertaking that is directly or indirectly controlled by a legal or natural person or by persons registered in a third country or third countries, save where that country or those countries have taken measures that allow public service contracts to be awarded through competitive tendering to railway undertakings licensed in a Member State.'</i></p>	<p><b>"3b. In application of Article 5(3), competent authorities may decide to apply the following procedure:</b></p> <p><b>Competent authorities may make public their intentions to award a public service contract by rail through the publication of an information notice in the Official Journal of the European Union.</b></p> <p><b>The information notice shall contain a detailed description of the services that will be the subject of the contract to be awarded as well as the type and the duration of the contract.</b></p>	<p>Drafting depends on the outcome of the discussions on reciprocity clauses.</p>

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			<p>Operators may express their interest within a period fixed by the competent authority which cannot be less than 60 days following the publication of the information notice.</p> <p>If after this period:</p> <p>a) only one operator has expressed its interest to participate in the procedure to award the public service contract and</p> <p>b) has duly proven that it will effectively be able to provide the transport service complying with the obligations established in the public service contract, and</p> <p>c) the absence of competition is not the result of an artificial narrowing down of the parameters of the procurement and</p> <p>d) when no reasonable alternative exists,</p> <p>the competent authorities may start negotiations with this operator in order to award the contract without further publication of an open tendering procedure."</p>	

	Commission proposal COM(2013)0028	EP amendments P7_TA(2014)0148	Council general approach ST 12777/15	Remarks/compromise proposal
132.	(a) Paragraph 4 is replaced by the following:		(a) Paragraph 4 is replaced by the following:	
133.	"4. Unless prohibited by national law, the competent authorities may decide to award public service contracts directly:		"4. Unless prohibited by national law, the competent <b>authority</b> may decide to award public service contracts directly:	
134.	(a) where their average annual value is estimated at: less than EUR 1 000 000 or less than EUR 5 000 000 in the case of a public service contract including public transport by rail or,		(a) where their average annual value is estimated at: less than EUR 1 000 000 or less than EUR <b>7 500 000</b> in the case of a public service contract including public passenger transport services by rail or,	
135.		<b>Amendment 47</b> <b>Article 1 – point 4 – point a</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 5 – paragraph 4 – subparagraph 1 – point b</b>		
136.	(b) where they concern the annual provision of less than 300 000 kilometres of public passenger transport services or less than 150 000 kilometres in the case of a public service contract including public transport by rail.	(b) where they concern the annual provision of less than 300 000 <b>vehicle-km</b> of public passenger transport services or less than <b>500 000 vehicle-km</b> in the case of a public service contract including public transport by rail.	(b) where they concern the annual provision of less than 300 000 kilometres of public passenger transport services or less than <b>500 000</b> kilometres in the case of a public service contract including public passenger transport services by rail.	<u>EP AM not acceptable</u> The legal text clearly refers to number of km of 'public passenger transport services'. That means that it refers to km run when performing the service and not to the length of the rail track or bus line.
137.		<b>Amendment 75</b> <b>Article 1 – point 4 – point a</b> <b>Regulation EC No 1370/2007</b> <b>Article 5 – paragraph 4 – subparagraph 1 – point ba (new)</b>		
138.		<i>(ba) where the technical specifications of isolated rail systems in the field of public rail passenger transport differ significantly from the</i>		<u>EP AM covered</u> in Presidency compromise proposal under Article 5(4a)(a)(i) (pt 143)

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		<i>TSI of the main rail network of the respective Member State to which they are not connected.</i>		
139.		<b>Amendment 48</b> <b>Article 1 – point 4 – point a</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 5 – paragraph 4 – subparagraph 2</b>		
140.	In the case of a public service contract directly awarded to a small or medium-sized enterprise operating not more than 23 road vehicles, these thresholds may be increased to either an average annual value estimated at less than EUR 2 000 000 or to an annual provision of less than 600 000 kilometres of public passenger transport services."	In the case of a public service contract directly awarded to a small or medium-sized enterprise operating not more than 23 road vehicles, these thresholds may be increased to either an average annual value estimated at less than EUR 2 000 000 or to an annual provision of less than 600 000 <i>vehicle-km</i> of public passenger transport services.	In the case of a public service contract directly awarded to a small or medium-sized enterprise operating not more than 23 road vehicles, these thresholds may be increased to either an average annual value estimated at less than EUR 2 000 000 or to an annual provision of less than 600 000 kilometres of public passenger transport services."	<u>EP AM not acceptable</u> The legal text clearly refers to number of km of 'public passenger transport services'. That means that it refers to km run when performing the service and not to the length of the rail track or bus line.
141.			<b>(aa) The following paragraph 4a is added:</b>	
142.			<b>"4a. Unless prohibited by national law, the competent authority may decide to award public service contracts for public transport by rail directly:</b>	
143.			<b>(a) (i) where it considers that the direct award is justified by the relevant structural and geographical characteristics of the market and network concerned, in particular their size, demand characteristics, complexity of the network, its technical and</b>	

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			geographical isolation and the services covered by the contract, and	
144.			(ii) where such a contract would result in an improvement in quality of services and/or cost-efficiency compared to the previously awarded public service contract.	
145.			On that basis, the competent authority shall issue a substantiated decision and shall inform the Commission thereof without undue delay.	
146.			Member States where, at the entry into force of this Regulation, the maximum annual volume is less than 23 million train-km and which have only one competent authority at national level and one public service contract covering the entire network shall be deemed to fulfil the conditions of point (i). Where those Member States decide to award a public service contract directly, they shall inform the Commission thereof. The United Kingdom may decide to apply this subparagraph to Northern Ireland.	
147.			Where the competent authority decides to award a public service contract directly, it shall define measurable, transparent and verifiable performance	

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			requirements. Such requirements shall be included in the contract.	
148.			The performance requirements shall in particular cover punctuality of services, frequency of train operations, quality of rolling stock and transport capacity for passengers.	
149.			The contract shall include specific performance indicators allowing for periodic assessment by the competent authority and shall specify effective and deterrent measures to be imposed in case the railway undertaking fails to meet the performance requirements.	
150.			The competent authority shall periodically assess and make public whether the railway undertaking has achieved its targets to meet the performance requirements as set in the contract. It shall take appropriate and timely measures, including effective and deterrent contractual penalties in case the required improvements in quality of services and/or cost-efficiency are not achieved. The competent authority may at any time wholly or partially suspend or terminate the contract awarded under this provision in case the operator fails to meet the performance	



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			requirements.	
151.			(b) where they concern operating only passenger rail services by an operator which manages simultaneously the entire or the major part of the railway infrastructure on which the services are provided, which is excluded from the application of Article 7, 7a, 7b, 7c, 7d, 8, 13 and Chapter IV of Directive 2012/34/EU establishing a single European railway area in accordance with Article 2(3)(a) or (b) of Directive 2012/34/EU.	
152.			In derogation from Article 4(3), directly awarded contracts pursuant to this paragraph shall not exceed 10 years, except where Article 4(4) applies.	
153.			Contracts awarded in accordance with this paragraph shall be published while taking into consideration the legitimate protection of confidential business information and commercial interests."	
154.		<b>Amendment 63</b> <b>Article 1 – point 4 – point aa (new)</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 5 – paragraph 5</b>		
155.	<i>[Art 5(5) of Regulation 1370/2007 wasn't modified by the Commission proposal – only by EP/CSL]</i>	<i>(aa) Paragraph 5 is replaced by the following:</i>	<i>(ab) Paragraph 5 is replaced by the following:</i>	

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156.	<p>[ORIGINAL WORDING of Regulation 1370/2007:]</p> <p>5. In the event of a disruption of services or the immediate risk of such a situation, the competent authority may take an emergency measure. This emergency measure shall take the form of a direct award or a formal agreement to extend a public service contract or a requirement to provide certain public service obligations. The public service operator shall have the right to appeal against the decision to impose the provision of certain public service obligations. The award or extension of a public service contract by emergency measure or the imposition of such a contract shall not exceed two years</p>	<p>'5. In the event of a disruption of services or the immediate risk of such a situation, the competent authority may take an emergency measure. <i>A situation of emergency may include the inability of the competent authority to launch in good time a tender procedure for a public service contract and/or to award that contract in good time to an operator.</i> This emergency measure shall take the form of a direct award or a formal agreement to extend a public service contract or a requirement to provide certain public service obligations. The public service operator shall have the right to appeal against the decision to impose the provision of certain public service obligations. The award or extension of a public service contract by emergency measure or the imposition of such a contract shall not exceed two years.'</p>	<p>"5. In the event of a disruption of services or the immediate risk of such a situation, the competent authority may take [...] emergency measures.</p> <p>This emergency measure shall take the form of a direct award or a formal agreement to extend a public service contract or a requirement to provide certain public service obligations. The public service operator shall have the right to appeal against the decision to impose the provision of certain public service obligations. The award or extension of a public service contract by emergency measure or the imposition of such a contract shall not exceed two years."</p>	<p><u>EP AM not acceptable</u></p> <p>Situations described in this AM covered in Article 5(3a) of GA text (point 129).</p>
157.	(b) Paragraph 6 is replaced by the following:		[deleted]	
158.		<p><b>Amendment 50</b></p> <p><b>Article 1 – point 4 – point b</b></p> <p><b>Regulation (EC) No 1370/2007</b></p> <p><b>Article 5 – paragraph 6</b></p>		
159.	"Competent authorities may decide that, in order to increase competition between railway undertakings, contracts for public passenger	'6. <i>In accordance with Directive 2012/34/EU, and unless prohibited by national law, those competent authorities which are responsible for</i>	[deleted]	<i>Aim of the GA text on the performance-based derogation (Article 5(4a)(a)) to the principle of competitive tendering is the</i>

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	transport by rail covering parts of the same network or package of routes shall be awarded to different railway undertakings. To this end the competent authorities may decide before launching the tender procedure to limit the number of contracts to be awarded to the same railway undertaking."	<p><i>establishing public transport plans as referred to in Article 2a may decide to proceed to the direct award of public service contracts concerning public rail passenger transport services, subject to the following conditions:</i></p> <p><i>(a) the public transport plan contains requirements applicable for the entire duration of the contract concerning the following:</i></p> <ul style="list-style-type: none"> <li>- evolution of passenger volumes,</li> <li>- punctuality of services,</li> <li>- cost-efficiency in terms of capital productivity,</li> <li>- frequency of train operations,</li> <li>- customer satisfaction,</li> <li>- quality of rolling stock.</li> </ul> <p><i>(b) the competent authority publishes no later than 18 months before the start of the contract how the requirements set out in point (a) of this paragraph are to be complied with through the direct award of a public service contract and regularly evaluates compliance with these requirements in the annual report referred to in Article 7(1). If a complaint of an interested railway operator or undertaking regarding the direct award of the contract is</i></p>		<p><i>improvement of quality and/or cost-efficiency of passenger rail services (pt 144).</i></p> <p><i>The principles underlying the Council performance-based derogation have the same objectives as the EP's ideas outlined in AM 50:</i></p> <ul style="list-style-type: none"> <li>- requirements in point (a) EP AM = pt 148 GA</li> <li>- publication assessment in point (b) EP AM = pt 153 GA</li> <li>- periodic assessment in point (b) EP AM = pt 149 and 150 GA</li> <li>- penalties in point (c) EP AM = pt 149 and 150 GA</li> <li>- role of regulatory body to assess compliance in point (b) and (c) EP AM = pt 145 GA</li> <li>- duration of contracts (9 years) in point (c) of EP AM = pt 152 GA (10 years)</li> </ul> <p><u><i>Parts of EP AM not acceptable</i></u></p> <ul style="list-style-type: none"> <li>- public transport plans</li> <li>- delegated acts</li> <li>- deletion of Article 5(6)</li> <li>- role of the regulatory body</li> <li>- too many requirements listed, and improvement necessary on each of them</li> </ul>

	Commission proposal COM(2013)0028	EP amendments P7_TA(2014)0148	Council general approach ST 12777/15	Remarks/compromise proposal
		<p><i>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 regulatory body may also act on its own initiative.</i></p> <p><i>(c) the regulatory body evaluates no later than 24 months before the end of the current contract whether the requirements set out in point (a) of this paragraph and assessed in accordance with Article 7(1) have been complied with. The competent authority shall provide to the regulatory body all data necessary for its evaluation.</i></p> <p><i>Where the regulatory body concludes that the requirements set out in point (a) of this paragraph have not been complied with, it shall without delay oblige the competent authority to award any new public service contract in accordance with paragraph 3 of this Article.</i></p> <p><i>The decision of the independent regulatory authority shall be binding and immediately applicable.</i></p> <p><i>By way of derogation to Article 4(3),</i></p>		

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		<p><i>the duration of such contracts shall not exceed nine years.</i></p> <p><i>The Commission shall adopt delegated acts detailing the requirements set out in point (a) of this paragraph. ‘.</i></p>		
160.			(b) The following paragraph 6a is added:	
161.			<p>"6a. Competent authorities may decide that, in order to increase competition between railway undertakings, contracts for public passenger transport by rail covering parts of the same network or package of routes shall be awarded to different railway undertakings. To this end the competent authorities may decide before launching the tender procedure to limit the number of contracts to be awarded to the same railway undertaking."</p>	
162.	5. The following Article 5a is inserted:		5. The following Article 5a is inserted:	
163.	"Article 5a		"Article 5a	"Article 5a
164.	Rolling stock		Rail rolling stock	Rail rolling stock
165.		<p><b>Amendment 51</b>  <b>Article 1 – point 5</b>  <b>Regulation (EC) No 1370/2007</b>  <b>Article 5 a – paragraph 1</b></p>		
166.	1. Member States shall in compliance with State aid rules take the necessary	1. <i>The competent authorities</i> shall, in compliance with State aid rules, take	<b>In a view of a competitive award procedure competent authorities</b>	<u>Presidency compromise proposal</u> <b>1. In view of a competitive award</b>

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	measures to ensure effective and non-discriminatory access to suitable rolling stock for public passenger transport by rail for operators wishing to provide public passenger transport services by rail under public service contract.	the necessary measures to ensure effective and non-discriminatory access <i>conditions</i> to suitable rolling stock for public passenger transport by rail for operators wishing to provide public passenger transport services by rail under <i>a</i> public service contract.	<b>shall assess whether measures are necessary to ensure effective and non-discriminatory access to suitable rolling stock."</b>	procedure, competent authorities shall assess whether measures are necessary to ensure effective and non-discriminatory access to suitable rolling stock. <b>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.</b>
167.	2. Where rolling stock leasing companies which provide for the leasing of rolling stock referred to in paragraph 1 under non-discriminatory and commercially viable conditions to all of the public rail passenger transport operators concerned do not exist in the relevant market, Member States shall ensure that the residual value risk of the rolling stock is borne by the competent authority in compliance with State aid rules, when operators intending and able to participate in tendering procedures for public service contracts so request in order to be able to participate in tendering procedures.		[deleted]	
168.		<b>Amendment 52 Article 1 – point 5 Regulation (EC) No 1370/2007 Article 5a – paragraph 2 –</b>		

	Commission proposal COM(2013)0028	EP amendments P7_TA(2014)0148	Council general approach ST 12777/15	Remarks/compromise proposal
		<b>subparagraph 2 – introductory part</b>		
169.	The competent authority may comply with the requirement set out in the first subparagraph in one of the following ways:	The competent authority may comply with the requirement set out in the first subparagraph in <i>various</i> ways <i>that facilitate economies of scale, such as:</i>	<i>[deleted]</i>	Presidency compromise proposal: <b>2. Competent authorities may decide, in accordance with national law and in compliance with State aid rules, to take appropriate measures to ensure effective and non-discriminatory access to suitable rolling stock. Such measures may include:</b>
170.		<b>Amendment 53 Article 1 – point 5 Regulation (EC) No 1370/2007 Article 5a – paragraph 2 – subparagraph 2 – point a</b>		
171.	(a) by acquiring itself the rolling stock used for the execution of the public service contract with a view to making it available to the selected public service operator at market price or as part of the public service contract pursuant to Article 4(1)(b), Article 6 and, if applicable, to the Annex,	(a) by acquiring, itself, <i>at market price</i> , the rolling stock used for the execution of the public service contract with a view to making it available to the selected public service operator at market price or as part of the public service contract pursuant to Article 4(1)(b), Article 6 and, if applicable, to the Annex,	<i>[deleted]</i>	Presidency compromise proposal: <b>(a) acquisition by the competent authority of the rolling stock used for the execution of the public service contract with a view to making it available to the selected public service operator at market price or as part of the public service contract pursuant to Article 4(1)(b), Article 6 and, if applicable, to the Annex, or</b>
172.	(b) by providing a guarantee for the financing of the rolling stock used for the execution of the public service contract at market price or as part of the public service contract pursuant to Article 4(1)(b), Article 6 and, if applicable, to the Annex. Such a		<i>[deleted]</i>	Presidency compromise proposal: <b>(b) provision by the competent authority of a guarantee by for the financing of the rolling stock used for the execution of the public service contract at market price or as part of the public service</b>

	<b>Commission proposal COM(2013)0028</b>	<b>EP amendments P7_TA(2014)0148</b>	<b>Council general approach ST 12777/15</b>	<b>Remarks/compromise proposal</b>
	guarantee may cover the residual value risk while respecting the relevant state aid rules when applicable,			<b>contract pursuant to Article 4(1)(b), Article 6 and, if applicable, to the Annex. Such a guarantee may cover the residual value risk, or</b>
173.	(c) by committing in the public service contract to take over of the rolling stock at the end of the contract at market price.		<i>[deleted]</i>	<u>Presidency compromise proposal:</u> <b>(c) commitment of the competent authority in the public service contract to take over the rolling stock at predefined financial conditions at the end of the contract at market price, or</b>
174.		<b>Amendment 54 Article 1 – point 5 Regulation (EC) No 1370/2007 Article 5a – paragraph 2 – subparagraph 2 – point ca (new)</b>		
175.		<i>(ca) by cooperating with neighbouring local authorities in order to create a larger pool of rolling stock.</i>		<u>Presidency compromise proposal:</u> <b>(ca) cooperation with other competent authorities in order to create a larger pool of rolling stock;</b>
176.		<b>Amendment 55 Article 1 – point 5 Regulation (EC) No 1370/2007 Article 5a – paragraph 2 – subparagraph 3</b>		
177.	In the cases referred to in points (b) and (c), the competent authority shall have the right to require the public service operator to transfer the rolling stock after the expiry of the public service contract to the new operator to	<b>3. In the cases referred to in points (b) and (c) <i>of the second subparagraph of paragraph 2</i>, the competent authority shall have the right to require the public service operator to transfer the rolling stock after the</b>	<i>[deleted]</i>	



	<b>Commission proposal COM(2013)0028</b>	<b>EP amendments P7_TA(2014)0148</b>	<b>Council general approach ST 12777/15</b>	<b>Remarks/compromise proposal</b>
	whom a contract is awarded. The competent authority may oblige the new public transport operator to take the rolling stock over. The transfer shall be done at market rates.	expiry of the public service contract to the new operator to whom a contract is awarded. The competent authority may oblige the new public transport operator to take the rolling stock over. The transfer shall be done at market rates.		
<b>178.</b>		<b>Amendment 56 Article 1 – point 5 Regulation (EC) No 1370/2007 Article 5a – paragraph 3</b>		
<b>179.</b>	3. If the rolling stock is transferred to a new public transport operator the competent authority shall make available in the tender documents detailed information about the cost of maintenance of the rolling stock and about its physical condition.	4. If the rolling stock is transferred to a new public transport operator the competent authority shall make available in the tender documents detailed information about the cost of maintenance of the rolling stock and about its physical condition.	<i>[deleted]</i>	<u>Presidency compromise proposal</u> <b>4. If the rolling stock is made available to a new public transport operator, the competent authority shall include in the tender documents any available information about the cost of maintenance of the rolling stock and about its physical condition.</b>
<b>180.</b>		<b>Amendments 57 and 82 Article 1 – point 5 Regulation (EC) No 1370/2007 Article 5a – paragraph 4</b>		
<b>181.</b>	4. By [18 months after the date of entry into force of this Regulation] the Commission shall adopt measures setting out the details of the procedure to be followed for the application of paragraphs 2 and 3 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in	<i>[deleted]</i>	<i>[deleted]</i>	<u>EP AM acceptable</u>

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	Article 9a(2)."			
182.	6. In Article 6 paragraph 1 is replaced by the following:		6. In Article 6, paragraph 1 is replaced by the following:	
183.	"1. All compensation connected with a general rule or a public service contract shall comply with Article 4, irrespective of how the contract was awarded. All compensation of whatever nature connected with a public service contract not awarded according to Article 5(3) or connected with a general rule shall also comply with the provisions laid down in the Annex. "		"1. All compensation connected with a general rule or a public service contract shall comply with Article 4, irrespective of how the contract was awarded. All compensation of whatever nature connected with a public service contract not awarded according to Article 5(1) or (3) or connected with a general rule shall also comply with the provisions laid down in the Annex."	
184.	7. Article 7 is amended as follows:		7. Article 7 is amended as follows:	
185.	(a) Paragraph 1 is replaced by the following:		(a) Paragraph 1 is replaced by the following:	
186.		<b>Amendment 58</b> <b>Article 1 – point 7 – point a</b> <b>Regulation (EC) 1370/2007</b> <b>Article 7 – paragraph 1</b>		
187.	"1. Each competent authority shall make public once a year an aggregated report on the public service obligations for which it is responsible, the starting date and duration of the public service contracts, the selected public service operators and the compensation payments and exclusive rights granted to the said public service operators by way of reimbursement. The report shall distinguish between bus	'1. Each competent authority shall make public once a year an aggregated report on the public service obligations for which it is responsible, the starting date and duration of the public service contracts, the selected public service operators and the compensation payments and exclusive rights granted to the said public service operators by way of reimbursement. <b>The report shall assess performance in terms of</b>	"1. Each competent authority shall make public once a year an aggregated report on the public service obligations for which it is responsible, the starting date and duration of the public service contracts, the selected public service operators and the compensation payments and exclusive rights granted to the said public service operators by way of reimbursement. The report shall distinguish between bus	<u>EP AM not acceptable</u> <i>AM goes too far in the information that shall be included in the reports (administrative burden with no identifiable benefits). Furthermore, some of the notions introduced by this AM such as "user satisfaction as measured by opinion polls", "cleanness" are very subjective.</i>

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	transport and rail transport, allow the performance, quality and financing of the public transport network to be monitored and assessed and, if appropriate, provide information on the nature and extent of any exclusive rights granted. Member States shall facilitate central access to these reports, for instance through a common web portal."	<i><b>compliance and specify all transport service indicators, including punctuality, reliability, cleanness, user satisfaction as measured by public opinion polls, and the minimum capacity utilisation rate.</b></i> The report shall distinguish between bus transport and rail transport, allow the performance, quality and financing of the public transport network to be monitored and assessed and, if appropriate, provide information on the nature and extent of any exclusive rights granted. Member States shall facilitate central access to these reports, for instance through a common web portal. <i><b>The Commission shall prepare a summary of these reports and submit it, in all working languages, to the European Parliament and the Council.</b></i> ;	transport and rail transport, allow the performance, quality and financing of the public transport network to be monitored and assessed and, if appropriate, provide information on the nature and extent of any exclusive rights granted. Member States shall facilitate central access to these reports, for instance through a common web portal."	
188.	(b) In paragraph 2, the following point is added:		(b) In paragraph 2, the following point is added:	
189.	"(d) the envisaged starting date and duration of the public service contract."		"(d) the envisaged starting date and duration of the public service contract."	
190.	8. Article 8 is amended as follows:		8. Article 8 is amended as follows:	
191.	(a) The first subparagraph of paragraph 2 is replaced by the following:		(a) The first <b>sentence</b> of paragraph 2 is replaced by the following:	
192.		<b>Amendment 59 Article 1 – point 8 – point a</b>		

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		Regulation (EC) No 1370/2007 Article 8 – paragraph 2 – subparagraph 1		
193.	"2. Without prejudice to paragraph 3, the award of public service contracts by rail with the exception of other track-based modes such as metro or tramways shall comply with Article 5(3) as from 3 December 2019. All public service contracts by other track-based modes and by road must have been awarded in compliance with Article 5(3) by 3 December 2019 at the latest. During the transitional period running until 3 December 2019, Member States shall take measures to gradually comply with Article 5(3) in order to avoid serious structural problems in particular relating to transport capacity."	"2. Without prejudice to paragraph 3, the award of public service contracts <b>concerning transport by road and other track-based modes such as metro, tramways or tram-train systems</b> shall comply with Article 5 from 3 December 2019. <b>Public service contracts concerning public passenger transport by rail shall be awarded from 3 December 2022</b> in compliance with Article 5. <b>By 3 December 2022 the competent authorities responsible for establishing the public transport plans referred to in Article 2a shall be entrusted with all powers necessary for awarding public service contracts in accordance with Article 5.</b> During the transitional <i>periods</i> , Member States shall take measures to gradually comply with Article 5(3) in order to avoid serious structural problems in particular relating to transport capacity.';	"2. Without prejudice to paragraph 3,  i) <b>Article 5 shall apply to the award of public service contracts for passenger transport services by road and by track-based modes other than rail such as metro or tramways as from 3 December 2019.</b>  ii) <b>Article 5, with exception of paragraph 4a, shall apply to passenger transport services by rail as from 3 December 2019.</b>  iii) <b>Article 5(4a) shall apply to passenger transport services by rail as from 10 years after the date of entry into force of this Regulation.</b>  iv) <b>Article 5(6) and Article 7(3) shall cease to apply as from 10 years after the date of entry into force of this Regulation.</b>  <b>Public service contracts for public passenger transport services by rail directly awarded in accordance with Article 5(6) may continue until</b>	<u>EP AM not acceptable</u> <i>2 issues at stake:</i> <i>1) political decision by the co-legislators as to the duration of the transition period (to be decided at the end of the negotiations). See also pt 198</i> <i>2) architecture of that provision making sure it is legally sound and does not create legal voids</i>

	Commission proposal COM(2013)0028	EP amendments P7_TA(2014)0148	Council general approach ST 12777/15	Remarks/compromise proposal
			their expiry date."	
194.	[Art 8(2)subpar 2 of Reg 1370/2007 wasn't modified by the Commission proposal – only by EP] [ORIGINAL WORDING of Regulation 1370/2007:]	<b>Amendment 60</b> <b>Article 1 – point 8 – point a</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 8 – paragraph 2 – subparagraph 1a (new)</b>		
195.	Within six months after the first half of the transitional period, Member States shall provide the Commission with a progress report, highlighting the implementation of any gradual award of public service contracts in line with Article 5. On the basis of the Member States' progress reports, the Commission may propose appropriate measures addressed to Member States.	<i>Within six months after the first half of the transitional <b>periods</b>, Member States shall provide the Commission with a progress report, highlighting the implementation of any gradual award of public service contracts <b>that comply</b> with Article 5. On the basis of the Member States' progress reports, the Commission may propose appropriate measures addressed to Member States.'</i> ;		<u>Presidency compromise proposal</u> Within six months after the first half of the transitional period <b>mentioned in point (iii)</b> , Member States shall provide the Commission with a progress report, highlighting the implementation of any gradual award of public service contracts <b>that comply</b> with Article 5. On the basis of the Member States' progress reports, the Commission may propose appropriate measures addressed to Member States.';
196.	(b) The following paragraph 2a is inserted:		(b) The following paragraph 2a is inserted:	
197.		<b>Amendment 61</b> <b>Article 1 - point 8 – point b</b> <b>Regulation (EC) No 1370/2007</b> <b>Article 8 – paragraph 2a</b>		
198.	"2a. Public service contracts for public passenger transport by rail directly awarded between 1 January 2013 and 2 December 2019 may continue until their expiry date. However they shall, in any event, not continue after 31 December 2022."	'2a. Public service contracts for public passenger transport by rail <b>that do not comply with Article 5</b> , directly awarded <b>before 3 December 2022</b> , <b>shall in</b> any event <b>expire at the latest on ...</b> *.'; ----- * <b>OJ: please insert the date 10 years</b>	"2a. Public service contracts for public passenger transport <b>services</b> by rail directly awarded <b>on the basis of a procedure other than a fair competitive procedure as of the date of entry into force of this Regulation until 3 December 2019</b> may continue until their expiry date. <b>In derogation</b>	<i>Political decision by the co-legislators as to the duration of the transition period (to be decided at the end of the negotiations). See also pt 193.</i>

	Commission proposal COM(2013)0028	EP amendments P7_TA(2014)0148	Council general approach ST 12777/15	Remarks/compromise proposal
		<i>after the entry into force of this Regulation (i.e. of the amending act - <a href="#">2013/0028(COD)</a>)</i>	from Article 4(3), the duration of such contracts shall not exceed 10 years, except where Article 4(4) applies."	
199.	(c) In paragraph 3, the last sentence of the second subparagraph is replaced by the following:		(c) In paragraph 3, <b>letter (d)</b> is replaced by the following:	
200.	"The contracts referred to in (d) may continue until they expire, provided they are of limited duration similar to the durations specified in Article 4."		<b>"(d) as from 26 July 2000 and before [the entry into force of this Regulation] on the basis of a procedure other than a fair competitive tendering procedure".</b>	
201.	9. "The following Article 9a is inserted:			
202.	<i>Article 9a</i>		<i>[deleted]</i>	
203.	Committee procedure		<i>[deleted]</i>	
204.	1. The Commission shall be assisted by the Single European Railway Area Committee established by Article 62 of Directive 2012/34/EU of the European parliament and of the Council of 21 November 2012 establishing a single European railway area (recast) <sup>7</sup> . That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.		<i>[deleted]</i>	
205.	2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply."		<i>[deleted]</i>	
206.	<i>Article 2</i>		Article 2	

<sup>7</sup> OJ L343/32 of 14.12.2012

	Commission proposal COM(2013)0028	EP amendments P7_TA(2014)0148	Council general approach ST 12777/15	Remarks/compromise proposal
207.		Amendment 62 Article 2		
208.	This Regulation shall enter into force on the day following that of its publication in the <i>Official Journal of the European Union</i> .	This Regulation shall enter into force on the day following its publication in the <i>Official Journal of the European Union</i> . <b><i>It shall be made available in the form of a text consolidated with Regulation (EC) No 1370/2007, which it shall amend within three months of its publication.</i></b>	This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union.	<i>Useful in principle but:</i> - consolidated version has no legal value - 3 months for COM to prepare it is a short deadline - OPOCE is providing that service
209.	For the European Parliament		For the Council	
210.	The President		The President	