

News from Brussels – December 2021

Hi!

Here is this month's newsletter from Brussels where we take a look at what's going on at the EU level and at relevant news from UITP (The International Association of Public Transport).

EU legislation and initiatives

At the end of every year, the European Commission rushes to publish the final legislative proposals, making December one of the most packed months of the year at EU level. This year was no different and December 2021 witnessed a lot of important publications.

Revised guidelines – Public service obligations Regulation 1370/2007

Regulation (EC) [No 1370/2007](#) is a cornerstone of the legal framework for the organisation of land transport services across the EU. The adoption of the fourth railway package in 2016 and the subsequent modification by Regulation (EU) 2016/2338, the end of the transition period in December 2019, and the many judgments handed down by the European Court of Justice since 2007, have prompted the European Commission to propose a revision of these interpretative guidelines. As anticipated, on December 2nd 2021, the European Commission sent UITP a draft of the revised interpretative guidelines.

Overall, UITP is worried that certain sections of the draft as they stand today, do not in any way contribute to legal stability and security, quite the contrary. Indeed, our analysis of the revised guidelines has led us to conclude that some of the sections have no legal basis whatsoever, do not interpret any specific provision of the Regulation and are to be construed as an attempt to create new obligations for the sector.

UITP and its members were given till February 10th 2022 to submit their feedback. A dedicated working group within UITP has been set up to work and react on the draft revised guidelines. Next month's newsletter will take an in-depth look at the proposal for the revision of the guidelines and present UITP's position. This month, the newsletter's section on «Understanding the EU better» is dedicated to understanding Regulation 1370/2007.

Green and Efficient Mobility Package - 14th December

On 14th December 2021, the European Commission published a set of three legislative transport proposals as well as one action plan aimed at achieving greater efficiency and more sustainable travel. All of the relevant documents and official information are available [here](#). UITP's official reaction to the package published the next day, is available [here](#).

Urban Mobility Framework

The much-anticipated Urban Mobility Framework, set to replace the last Urban Mobility Package adopted in 2013, does not include any legislative or binding measures in any way. For our sector, the Framework remains a very important document as it highlights and promotes public transport

to an extent previously unseen. Indeed, an entire section of the Framework is dedicated to «Attractive public transport services». The document repeatedly calls for measures to support public transport, which shall be the backbone of urban mobility and MaaS systems and mentions many of the benefits public transport has. It also clearly mentions that urban nodes in the TEN-T network should develop SUMP's that aim to increase the use of public transport, and to strengthen public transport throughout cities and regions. As a reminder, UITP's general position paper on the Urban Mobility Framework prior to its publication is available [here](#).

ITS Directive

The revision of the Intelligent Transport Systems (ITS) Directive is crucial to our sector (the current version of the Directive is available [here](#)). Indeed, it regulates, via its delegated regulations, everything from urban vehicle access restrictions, to travel information services and cooperative autonomous vehicles. What's new in the proposed revision for our sector is the mandatory provision – and therefore collection – of the following data : the location of identified access nodes for all scheduled modes, including information on accessibility of access nodes and paths within an interchange (such as existence of lifts, escalators) to be made accessible on the national access points by 31.12.2026 for the entire transport network of the EU. This is a huge change since it would mean that public transport operators and authorities that don't already produce this type of data will now be required to invest in systems capable of producing / creating it. The obligation to create data did not exist before at EU level and could set a dangerous precedent.

TEN-T Regulation

The current Trans European Transport Network (TEN-T) Regulation ([here](#)) identifies the cross-national transport lines as well as the urban nodes connected to them that are deemed priorities for investment and development by the EU. The new proposal features a significant expansion of the Urban Nodes from the current 79 units up to 424 units (Finland would have 7 identified urban nodes, up from 2 previously, and Sweden 18, up from 3 previously). Moreover, the revised guidelines propose that all Urban Nodes must develop a sustainable urban mobility plan (SUMP) by 2025, as well as collect and submit related mobility data. Under the current TEN-T legislation, having a SUMP is a voluntary engagement. *Within the revised Regulation, all Urban Nodes will have the legal obligation to set up SUMP's.*

Action Plan: boosting long-distance and cross-border passenger rail

The Action plan seeks to address the barriers to long-distance and cross-border passenger rail services identified by the Commission with the support of rail stakeholders. The proposals put forward in the plan include an acceleration of digitalisation, better availability of rolling stock and easier access to infrastructure for rail operators through appropriate track access charges. The plan also includes measures to make ticketing more user-friendly, to address the issue of missed connections when passengers travel with several tickets, and to introduce sustainable cross-border and/or multimodal collective transport through Public Service Obligations, where necessary. Finally, in the framework of the European year of youth 2022, the Communication aims at looking for ways to make sustainable transport modes an attractive option for young people.

Evaluation of the rights of passengers

Over the last few years, the European Commission has been reviewing the passenger rights regulatory framework for all modes. A call for evidence ([here](#)) launched on 20th December 2021 and open until 17th January 2022 is now available to all interested stakeholders on the basis of an impact assessment recently published. This call for evidence will be followed in the first half of 2022 by a public consultation on a proposal for a Regulation on this topic. The proposal for a Regulation should look into, among other things, the rights of passengers in a multimodal context. Parallel to this call for evidence, the European Commission has published evaluation reports of three of the four passenger rights regulations for:

- Bus and coach, [here](#)
- Maritime and inland waterways, [here](#)
- And for those who might be interested, Air transport [here](#)

Given the Rail passenger rights regulation was only recently revised and published, there is no evaluation report for that mode.

Multimodal Digital Mobility Services (MDMS)

On 1 December 2021, the European Commission published the online public consultation on Multimodal Digital Mobility Services (MDMS). The consultation is available [here](#). This consultation is open for feedback until 23rd February 2022. UITP will of course prepare a response to the consultation and would encourage you to do the same. As a reminder, MDMS is now the official name for the future Multimodal Ticketing act that the sector has been anticipating for the last year or so. UITP, POLIS and EMTA have submitted over the last year, two separate opinions on the Commission's plans for MDMS available [here](#) and [here](#).

Multimodal Passenger Mobility Forum – call for applications

In the context of the European Commission's work on Multimodality, a call for applications for the selection of members for a Multimodal Passenger Mobility Forum (MPMF) was launched on 9 December 2021. The experts will, among other topics, be asked to advise the European Commission on the revision of the Multimodal Travel Information Services Regulation ([MMTIS](#)) and the future proposal on Multimodal Digital Mobility services (MDMS) on ticketing services. The expert group is therefore of great importance for our sector.

The call for applications is available in full [here](#). It sets out the rules of engagement and operation of the MPMF, the exact application procedure as well as the selection criteria and procedure. The call also includes the forms that need to be filled in by all applicants. The European Commission's official decision to set up the MPMF is available [here](#). It highlights the main tasks of the new expert group. The duly signed applications must be sent by 12 January 2022 noon (CET) at the latest.

UITP will apply to become a member of the expert group and would strongly encourage you to do the same.

French Presidency of the Council of the EU

Starting on 1st January 2022, France will hold the presidency of the Council of the EU for the next six months after Slovenia (01.07.21–31.12.21) and before the Czech Republic (01.07.22–1.12.22).

The official website of the Presidency is [here](#). Since the French presidential election will take place in April this year and the government will also be suspended pending the legislative elections of June, this means the presidency will only really be effective during the first three months of 2022. The French presidency's priorities in terms of Transport will be going ahead with the Fit for 55 package, in particular the Alternative Fuels Infrastructure Regulation, as well as the TEN-T Regulation and the ITS Directive.

State aid rules for the rail sector

The European Commission is continuing its work on the revision of sectoral State aid rules. Next in line: the review of State aid rules for the rail sector. The European Commission therefore published this month a public consultation, available [here](#) and open for feedback until March 16th 2022. UITP will be responding to the public consultation. The guidelines in the rail sector have not been revised since 2008 and with the progressive opening of the rail markets prompted by the Fourth railway package, as well as case-law and various practices in the EU needing to be codified, the European Commission deems this review to be essential.

Understanding the EU better – the PSO Regulation (1370/2007)

The EU can seem quite far away at times, the legislative procedure can seem obscure and the jargon impenetrable. This is why, every month, we take a closer look at one of the cogs in the EU machinery, in relation with a relevant piece of EU legislation for the public transport sector.

This month, with the communication by the European Commission to UITP of the proposal for a revised set of guidelines on the PSO Regulation, we take a closer look at what Regulation 1370/2007 actually says and does.

Essentially, Regulation 1370/2007 does three things:

a) It makes public service contracts almost always compulsory and defines their minimum content

b) It defines which award procedures for public service contracts are allowed

Under the PSO Regulation, competent authorities have various choices as to how to organise the public passenger transport services on their territory and on how to award public service contracts:

- Controlled competition, otherwise known as competitive tendering, is the rule.
- Deregulated markets are allowed
- Closed markets, where contracts are directly awarded to an internal operator, are allowed under conditions
- Mixed systems are permitted. Indeed, in most countries, mixed award procedures for contracts are the norm.

c) It establishes specific State Aid rules applicable to the public transport sector

The PSO Regulation constitutes a *lex specialis* which establishes State Aid rules applicable specifically to compensation for public services in the public transport sector. These rules have already been explored in depth in a separate newsletter.

It could seem from the above that all aspects of the organisation of public transport are strictly governed by the PSO Regulation.

In reality however, and in application of the subsidiarity principle, some aspects of the organisation of public transport are not at all impacted by the Regulation.

For instance,

- The Regulation does not interfere with the institutional structure of Member States: it does not decide who the competent authorities are;
- It does not impose or define any public service obligations. This means in practice that competent authorities are responsible for the definition of their priorities and therefore of the public service obligations they wish to establish;
- It does not impose social, environmental or quality criteria: competent authorities are free to establish social, qualitative or environmental criteria such as working conditions, access for PRMs, security conditions, etc;
- It does not interfere with authorities' decision on how to organise public transport services: by network, by mode of transport, by route or a mix of those. In some countries for instance, operators might obtain exclusive rights for the whole network whereas in others, contracts might be awarded by transport mode, and sometimes even line by line.

Moreover, the PSO Regulation leaves room for local particularisms.

Indeed, the PSO Regulation does not impose competitive tendering. As we have seen, it leaves the choice between competitive tendering and direct award to an internal operator. If some countries have chosen one or the other as the sole management mode, generally speaking, both are possible and present in a given Member State.

There are also times when the theory doesn't quite match up to reality. In some countries, the tendering procedure systematically leads to the incumbent operator being granted the contract as no other company answers the call. This can be due to the size of the contract or to the level of compensation if it is known to be inadequate.

The objective of the Fourth Railway package, adopted in 2016, was to establish competition as a general principle for the award of rail public service contracts and thereby liberalise national passenger rail services.

From 2013 to 2016, negotiations took place on the following aspects of the reform:

- Exceptions to competitive award: whereas in the initial proposal, the European Commission had provided for no exceptions to competition, the final text includes a long list of broad exceptions to the general principle;
- Access to rolling stock: it was eventually decided that competent authorities would assess whether measures were necessary to ensure non-discriminatory access to rolling stock;
- Transition period: in the end, the text provides for a six-year transition period (2023) instead of a two-year one, with the possibility of awarding a ten-year public service contract at any point before the end of the transition

The proposed revision of the interpretative guidelines of the PSO Regulation takes into account the Fourth Railway package.

A very useful, even though a little outdated now and extremely in-depth, guide on understanding the original 2007 PSO regulation is available online [here](#). For more information on how the Regulation is applied across the EU, please visit eupublictransport.uitp.org available via your UITP credentials. Finally, for the rail sector, a 2017 overview on public service rail transport in the EU is available [here](#).

Publications

- **Urban PM2.5 Atlas**

In this Atlas, both the spatial (e.g. urban, country) and sectoral (transport, residential, agriculture...) contributions of PM2.5 (responsible for adverse health effects and premature deaths across the EU) are quantified for 150 urban areas in Europe. The Atlas, published by the European Commission, is available [here](#).

«The following conclusions are formulated:

- (1) for many cities, local actions at the city scale are an effective means of improving PM2.5 air quality in that city;*
- (2) target sectors and scales to abate air pollution are city specific;*
- (3) for many cities, sectoral measures addressing agriculture at country - or EU - scale have a clear benefit on urban air quality and*
- (4) because of methodological choices and assumptions, the responsibility of a city in generating its air pollution is often underestimated.»*

- **Topic guide on Safe use of micromobility devices in urban areas**

The European Platform on Sustainable Urban Mobility Plans has published in December 2021 a new guide on the safe use of micromobility devices within urban areas. The guide is available [here](#).

The guide:

«proposes best practice and key recommendations on the integration of micromobility in urban mobility planning, with the goal to support cities in achieving a safer use of micromobility devices in urban areas. It should also support the European Commission in delivering [...] the Sustainable and Smart Mobility Strategy. It focuses on shared electrically powered personal mobility devices such as e-scooters and provides some guidance on how the users of these vehicles interact with the users of bicycles and electric power assisted cycles (EPACs), as well as pedestrians and other road users.»

Not a UITP member yet?

As a UITP member, you can share knowledge with a network of more than 200 public transport authorities worldwide. Read more at <https://www.uitp.org/membership-benefits> or contact Camille Roy in UITP: camille.roy@uitp.org

Any questions? Please contact me at annabelle.huet@uitp.org

Kind regards,
Annabelle