

**From:** [REDACTED]  
**To:** [REDACTED] (MOVE)  
**Cc:** [REDACTED]  
**Subject:** Some comments on the non-paper "Revised interpretative guidelines concerning Regulation (EC) No. 1370/2007  
**Date:** jeudi 10 février 2022 12:31:07  
**Attachments:** [20190819 Auszug GA PSO.pdf](#)  
[2022\\_02\\_03 vida AK Kommentar PSO Guidelines.pdf](#)

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Dear [REDACTED],

I am very sorry that – due to technical problems – I could not take part on the conversation about the „PSO Guidelines“ at 7th of February 2022. Therefore, I want to take the opportunity to write to you about some aspects and thoughts regarding the “guidelines”.

- The railway systems in Switzerland and Austria are widely regarded as the best in Europe. This can be measured by a wide range of parameters (f.e. passenger kilometres per inhabitant, punctuality, passenger satisfaction etc.). In both countries, most of the railway services were awarded directly. This model has proven to be successful. Therefore, it would be counter-productive to be forced to change to the “experiment” of competitive tendering. Article 5 (4a) states that – if certain conditions are met – direct awarding is still possible. A study written by the two well-known Austrian legal experts Lessiak and Aicher states that authorities are still equally entitled to choose between direct awarding and competitive tendering. Please find details in the attached study (in German). Therefore, we oppose the Commission’s view that direct awards are “exceptions” that should be treated “extreme strictly”.
- Science and experience tells us that a good offer of public transport triggers the demand. Therefore we see it were critical if authorities have to prove the need of PSO-transports.
- The non-paper of the “revised interpretative guidelines” gives the impression that the Commission wants to use these guidelines to re-introduce its original demands and ideas (part of the 4<sup>th</sup> railway package), which were written down in the draft of the PSO-Regulation. The Commission’s draft was subsequent strongly altered by the democratic law-making process of the European Parliament and the Council. Therefore, we strongly disagree to the Commission’s efforts to restore its neoliberal agenda via the “backdoor” of the guidelines. In many cases, these guidelines do not reflect the wording and spirit of the Regulation. This could be seen as a non-democratic effort.
- There are many aspects where the PSO-regulation is vague and where guidelines could give more clarification. Examples are Articles 4(4a), (4b), (5) and (6): Clear guidelines how to implement “social standards” and “transfer of staff” in a safe legal framework (f.e. a list of criteria) would be helpful but are still missing. Similar the aspect regarding “internal operator” [Article 5(2) b] and the question of “ancillary service” into neighbouring territory: Here again the Commission fails to give clear advice.

For a detailed critique, I attach a joint statement of the trade union vida and the Austrian Chamber of Labour (in German). We hope that we could contribute to the development and improvement of the “guidelines”.

Best regards

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