

(MOVE)

**From:** (MOVE)  
**Sent:** vendredi 4 mars 2022 09:56  
**To:** BJORKLUND Mona (MOVE)  
**Cc:** (MOVE); (MOVE); (MOVE);  
(MOVE)  
**Subject:** debrief: meeting with ETF re Interpretative Guidelines

Dear ,

Please find below a debrief on yesterday's meeting with European Transport Workers Federation regarding the draft Interpretative Guidelines to Regulation 1370/2007.

Best regards,

for the team

## Debrief

DG MOVE A4 meeting with ETF (European Transport Workers' Federation) + their CH, AT and DE members' representatives, 3.3.2022

- At the request of ETF accompanying their submission in the targeted stakeholders consultation on the draft Interpretative Guidelines (IG) of the Land PSO Regulation 1370/2007;
- ETF critical of the draft IG in general: perception that Commission is introducing new rules through the backdoor of IG
  - o DG MOVE explained that no new rules, only guidance how to apply existing rules (including case law)
- Critical of the process: requested a consultation committee/ working group *a la* road sector
  - o DG MOVE explained this is not a legislative proposal: hence, different procedures apply. Additionally, R1370/2007 does not contain any substantial provisions on EU social acquis contrary to the road transport sector.
- ETF questioned why IG go against direct award- which for them is the optimal way to provide public service transport + ETF *a priori* very critical of competition
  - o DG MOVE explained that the transition period for unconditional direct award expires in 18 months because of the 4<sup>th</sup> railway package, not because of the IG
  - o Explained existing legal rules (open access default, but PSCs continue to be possible – MSs retain large discretion. The COM checks for manifest error, limitations set by the Court)
  - o Same goal: protection of consumers, but different ways to get there
- ETF- questioned why more guidance is not provided on social elements (Art. 4(5) and (6)) of R1370/2007
  - o DG MOVE explained that, unfortunately, this is not possible, due to the subsidiarity principle: MSs specifically insisted that social legislation remains within their powers, not with the EU. Nothing substantially changed with the 4<sup>th</sup> railway package. Therefore the Commission cannot provide more guidance on this point.

## Next steps

- ETF expects that DG MOVE will reply in writing to their contribution in the targeted stakeholders consultation: DG MOVE position: this is not the case under the targeted stakeholder consultation procedure.
- ETF advised the Commission services that the ETF is launching lobbying efforts through the political levels