**DRAFT**

**on establishing the terms and conditions for awarding public transport services by rail within the territory of the Republic of Bulgaria in relation to the preparation of a new contract**

*Key characteristics of the procedure*

The main objective of the upcoming public procurement is to meet the public need for rail passenger transport, in compliance with the conditions set out in applicable 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 and repealing Council Regulations (EEC) No 1191/69 and (EEC) No 1107/70. This objective will be achieved through the application of the principles of transparency, equal treatment of competing railway undertakings, and proportionality. As a final outcome of the procedure, it is expected that safe, efficient, and high-quality rail passenger transport services will be ensured, taking into account social and environmental factors, as well as regional development, and offering specific tariff conditions for certain categories of passengers

**1.** **Scope of the Public Procurement**

The subject of the public procurement is the provision of public rail transport services under the assumption of a public service obligation and a tariff obligation by the respective carrier, including the transportation of passengers entitled to free or reduced-fare travel

The public procurement will be divided into regions, as shown in the attached maps, with:

a) the award of contracts will be on a regional basis. Three regions will be defined – Western, Northern, and Southern. Each region will include secondary railway lines;

b) provision made for each region to be served by a depot located within its territory/region, on a non-discriminatory basis;

c) optimal allocation of workforce and personnel to each potential carrier.

The awarding of the contracts will follow a competitive tendering procedure, open to all carriers, fair, and in line with the principles of transparency and non-discrimination.

The awarding of public service obligations (PSO) for rail transport by regions is a measure that will be applied for the first time by the Bulgarian state and represents a significant challenge.

The Ministry of Transport and Communications plans to continue active communication with stakeholders, including trade unions, to discuss the terms and conditions of the upcoming public procurement

**2. Duration of contracts –** the planned duration of contracts is 12 (twelve) years, with the Effective (Starting) Date of execution of each of the contracts set for 13 December 2026.

The selected duration complies with Article 4, paragraph 3 of Regulation (EC) No 1370/2007, as well as Article 54, paragraph 2 of the Railway Transport Act, and remains within the 15-year limit for passenger rail transport contracts. A balanced approach has been adopted, whereby the 12-year duration is sufficient to ensure the financial and operational security of the Contractors. The maximum allowable duration has not been used in order to encourage competition and allow for the future entry of new participants into the passenger rail transport market.

The Effective Date (13 December 2026) will be preceded by a mobilization period, during which the respective Contractor must prepare to commence the public transport service The mobilization period refers to the time between the signing of the contract for the respective region and 12 December 2026. This mobilization period will not be included in the contract term. The mobilization period will be between 6 (six) months and 1 (one) year, depending on the date of contract conclusion.

The Contracting Authority does not plan to make any advance payments to the Contractors during the mobilization period.

**3. Exclusive rights –** No Granting of Exclusive Rights Foreseen

Exclusive rights, as defined in Article 2(e) of Regulation (EC) No 1370/2007, authorize a public service operator to provide certain public passenger transport services on a specific route or network within a given area, to the exclusion of any other such operator. The Contracting Authority does not plan to include such provision in the terms of the public procurement, in order to minimize the risk of distorting competition.

**4. Order volume; market segments**

The order volume is determined based on the train running schedule for 2025. In defining the procurement volume, the analyses conducted as part of the Market Assessment for the Railway Sector (including demand, demographic trends, and public attitudes toward rail transport) have been taken into account. These analyses define the scope of the public service obligation under the new contract. The market valuation is published on the website of the Ministry of Transport and Communications at: https://www.mtc.government.bg/bg/category/312/izgotvena-e-pazarna-ocenka-na-zhelezoptniya-sektor-opredelyascha-obkhvata-na-zadlzhenieto-za-izvrshvane-na-obschestveni-prevozni-uslugi-za-sledvaschiya-dogovor-za-izvrshvane-na-obschestveni-prevozni-uslugi-s-zhelezopten-transport.

Based on the current contract and the Train Traffic Schedule (DFR) 2024–2025, the planned train-kilometres for the first year of implementation have been calculated. In the preparation of the Train Traffic Schedule for the subsequent years of the contract period, each carrier shall submit capacity requests, which shall be coordinated by the Infrastructure Manager. The coordination of services between Contractors in the different regions shall be carried out through a General Train Traffic Schedule, which will be prepared by the State after consultation with the municipalities and regional administrations. The contract will include a requirement for the respective Contractor to ensure an interconnected system of routes and timetables with the Contractors in the other regions. During the mobilization period, the Contractors shall be required to ensure compatibility between their ticketing systems by entering into agreements with each other. A review mechanism is expected to be proposed in the draft contract in order to maintain its effectiveness—both in terms of the Contractor’s performance and in relation to passenger needs.

Demographic trends and demand have a significant impact on the volume of services. The analyses conducted as part of the Market Assessment show that the decline in the national population will affect the demand for passenger rail services, leading to a decrease in the number of passengers. The forecast for 2040 indicates that the total population of Bulgaria is expected to reach 6,135,500 people, which is nearly 12% less than in 2020. This will significantly affect the number of rail journeys, despite expectations for increased mobility and a greater share of rail transport in citizens’ overall travel. In addition to population decline, the forecast data also point to further population concentration in the five largest regions of the country (Sofia, Plovdiv, Varna, Burgas, and Stara Zagora) where around half of the national population is expected to reside by 2040. Under the assumption of increased travel activity, the total number of transported passengers is expected to grow, although this growth will be generated by a smaller number of individuals.

The procedure will be awarded under the provisions of Regulation (EC) No 1370/2007 and in accordance with the application procedure set out in the Public Procurement Act. In this regard, it is envisaged that the volume of assigned services will be updated annually through the signing of a supplementary agreement to the main contract. The draft contract for the provision of public transport services will include provisions regarding the possibility of updating the volume of assigned services. An annual review of the contract parameters will be carried out to maintain the effectiveness of the contract. If circumstances arise that lead to an increase in train-kilometres, the train-kilometres under the contracts with the Contractors will also be increased, taking into account their respective capacities.

With regard to the financial impact on the Contractors, and in accordance with the technical specifications and the requirements of Regulation 1370/2007, the subsidy intended to compensate for the public service obligation shall not exceed the amount corresponding to the net financial effect, which equals the sum of the consequences (positive or negative) of performing the public service obligation on the revenues and expenses of the Contractor providing public transport services.

The technical specifications will provide detailed information on the scope and volume of the assignment, as well as the train timetable for the respective region, including: train category (express, fast, passenger, suburban passenger, international, and night), train number, departure and terminal stations, intermediate stations and stops, distances between stations, speeds between stations, departure and arrival times, stop durations, days of operation, train-kilometres, and other. Tariff obligations are established by a separate act of the Council of Ministers (Council of Ministers Decree No. 295/2001).

The volume of the assignment for the respective regions has been calculated based on train-kilometres in accordance with the Train Traffic Schedule (TTS) 2024 - 2025. During the first year of the new contract period (2027), the Contractors will operate in accordance with the approved train schedule for 2026 - 2027.

Planned market segments included in the order volume:

- Express trains (Minimum first and second class, reservation required for all seats, average communication speed of at least 80 km/h, routes over 100 km, serving only cities with more than 20,000 inhabitants and/or major junction stations). This market segment is currently not part of the PSO and there is insufficient available rolling stock suitable for providing such services. Gradual implementation is planned from the first year of the new contracts with carriers, depending on the availability of appropriate rolling stock and the capacity of the railway infrastructure. (See map of express trains);

- Fast trains (Minimum first and second class, reservation required for all seats, routes over 100 km, serving selected stations and stops along the route). This market segment is currently operational. Optimization is planned in relation to the regional distribution of service volume. The majority of fast trains will be operated by the Western carrier. (See map of fast trains);

- Passenger trains (Routes of up to 200 km, serving all stations and stops along the route). This market segment is currently operational. Optimization is planned in connection with the regional allocation of service volume (See map of regional and suburban passenger trains);

- Suburban passenger trains (Routes of up to 100 km, serving the suburban areas of administrative and economic centers). This market segment is currently operational. Optimization is planned in connection with the regional allocation of service volume (See map of regional and suburban passenger trains);

- International trains (Minimum first and second class, reservation required for all seats, operating on routes that cross the state border of the Republic of Bulgaria and serving selected stations and stops within the country). This market segment is currently operational - on Bulgarian territory, additional coaches are included in the train composition to serve domestic passengers. It is planned to continue this service and to refine the method of covering the net financial effect of its operation within the country (See the map of international trains);

- Night trains (Minimum first and second class, reservation required for all seats, offering sleeping compartments and/or couchettes, routes over 100 km, operating across one or more calendar days, whether or not they cross the state border of the Republic of Bulgaria, and serving selected stations and stops within the country). This market segment is currently operational. Its continued operation is planned (See map of night trains).

**5. Access to trains - rolling stock**

The implementation of the contracts is planned to be supported by the use of own and/or leased rolling stock, as well as rolling stock provided by the state.

The rolling stock to be provided free of charge to the selected Contractors will be allocated proportionally to the service volume performed in the respective region, in relation to the total national volume of the public transport service.

In accordance with Article 5a of Regulation 1370/2007, the selected Contractors will be granted access to rolling stock.

The rolling stock planned under the National Recovery and Resilience Plan is as follows:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Train-kilometres** | **EMUs** | **Shunting Locomotives** | **Notes** |
| **Total** | **Approx. 23,000,000** | **60 units** | **9 units** | Approx. 2.6 EMUs and 0.4 locomotives per 1 million train-kilometres |

From the rolling stock procured under Contract No. Д-30/04.09.2024 for the delivery of 20 single-deck zero-emission electric multiple units (EMUs), as well as the Additional Agreement to it DS-12/7.11.2024 for the delivery of another 5 single-deck zero-emission EMUs, Contract No. Д-4/22.02.2024 for the delivery of 9 electric shunting locomotives, and Contract No. Д-9/25.04.2025 for the delivery of 35 zero-emission EMUs, a respective number of single-deck zero-emission EMUs and electric shunting locomotives (for operation in non-electrified depots) will be provided free of charge to each selected Contractor, proportional to the volume of service performed in relation to the national public service volume. The delivery and registration deadlines for the above rolling stock are: 31 August 2026 (for Contract No. Д-30/04.09.2024 and Contract No. Д-4/22.02.2024), and 25 August 2027 (for Contract No. Д-9/25.04.2025), at which point the rolling stock is scheduled to be handed over to the Contractor for each region. Upon the expiry of the contracts, the Contractors must return the rolling stock to the owner in the condition in which it was received, allowing for normal wear and tear, so that the state may allocate it to future Public Service Providers.

Rolling stock purchased through capital transfer during the term of the current contract, and listed in the annex to the Technical Specifications, will be made available free of charge to Contractors expressing interest, for the purpose of performing the assigned services. Following the delivery of rolling stock through capital transfer under Contract No. 03-43-218/18.12.2023 for the supply and warranty maintenance of 10 newly manufactured mainline electric locomotives, the selected Contractor for each region will be provided with rolling stock for free use, in proportion to the volume of service it performs relative to the total national volume of the public service obligation. The new rolling stock will be tested and made operational by December 2025.

When provided with newly acquired rolling stock or rolling stock purchased through capital transfer during the current contract period, the Contractors are obligated to use it solely for the performance of the assigned transport services. Upon the expiry of the contracts, the Contractors must return the rolling stock to the owner in the condition in which it was received, allowing for normal wear and tear, so that the state may allocate it to future Public Service Providers.

Regarding rolling stock owned by the current operator and acquired prior to the entry into force of Regulation (EC) No 1370/2007, newly selected Contractors will have the opportunity to purchase or lease it at market value. The market value shall not be lower than the one established by an independent appraiser, reduced by any compensation received by the current operator in the form of subsidies or capital transfers related to the respective rolling stock. The current Contractor is preparing a procedure for selecting an independent appraiser to determine the value of the rolling stock. The valuation will be properly published before the launch of the tendering procedure and will form part of the tender documentation.

Until the new rolling stock is delivered, Contractors will perform the service using their own and/or leased rolling stock, as well as rolling stock already acquired through capital transfers and/or rolling stock acquired prior to the enforcement of Regulation (EC) No 1370/2007. With regard to rolling stock currently owned by the incumbent operator, the tender documentation will provide sufficient time for Contractors to secure the necessary rolling stock for service delivery.

The annexes to the Technical Specifications will include complete and detailed information on the rolling stock acquired through capital transfer during the term of the current contract and on therolling stock acquired before the entry into force of Regulation (EC) No 1370/2007, to which non-discriminatory access will be granted to the selected Contractors for use in their respective regions. The information will include inventory numbers of locomotives/coaches, name, group, and series. The documentation will also define the procedure for transferring the rolling stock.

**6. Access to Maintenance, Servicing, and Operational Facilities**

To fulfill their public transport obligations, the selected Contractors will be granted equal and non-discriminatory access to facilities for the maintenance, servicing, and operation of rolling stock.

In the event that the selected Contractor for a given region does not have its own maintenance facility for rolling stock, it shall be required to secure such a facility by the effective date of contract implementation in order to fulfill its maintenance obligations. The selected Contractors will be given the opportunity to lease the specified facilities at a market price, which shall not be lower than the value determined by an independent appraiser.

**7. Guaranteeing the Rights of Employees**

Within the procedure, an adequate level of social protection will be ensured for the personnel of public service Contractors, in accordance with Recital 12 of Regulation (EU) 2016/2338. The selected Contractors will be obligated to comply with applicable social and labor law requirements, as established by European Union law, national legislation, and collective agreement.

The Contracting Authority will require that Contractors in the individual regions adhere to specified social standards. The documentation will identify the personnel affected by the change of Contractor and will provide transparent and clear details regarding the contractual rights of the transferred employees.

In accordance with Directive 2001/23/EC, the documentation will include information on the rights and obligations related to the transfer of workers employed by the current Contractor.

Pursuant to Article 123, Paragraph 1, Item 7 of the Labor Code, employment relationships with workers and employees shall be preserved and will not be terminated upon the selection of new public service Contractors. When the Contractor changes, the employer will change as a result of the transfer of activities from one enterprise to another. The employment relationships of the workers and employees engaged in public transport activities in the respective region will be maintained and transferred to the new employer - the new public service Contractor.

In the event of a change of Contractor, the rights and obligations of all workers and employees of the current Contractor engaged in the relevant region will be transferred accordingly. National legislation provides for the protection of employees’ rights in cases of business transfer from one enterprise to another, ensuring that employees engaged in such activities are transferred to the new entity. Collective bargaining agreements will remain in force - employees will retain their jobs, remuneration, and social benefits.

The Bulgarian authorities will adhere to the requirements of Regulation (EC) No 1370/2007 to ensure appropriate levels of social protection for the workforce. Trade union organizations have also emphasized the importance of retaining sector personnel - experienced and trained professionals committed to their work and carrying significant responsibility. In recent years, there has been a chronic shortage of qualified personnel in the railway sector. In this context, the Bulgarian authorities consider it socially justified to preserve the existing number of employees in each region and to ensure social stability in the sector.

For the duration of the contracts, the parties shall maintain in force the applicable collective labor agreements under the conditions and procedures of the Labor Code. The Contractors shall be obligated, for the entire duration of the contract, to maintain at least the same level of staff qualification as defined in the *Annex to the Technical Specifications – Quality indicators for the provision of transport services.*

**8. Compensation for public services (with zero net financial result) –** the forecast estimate of the necessary funds to compensate for the public transport service shall include a reasonable profit.

A reasonable profit is foreseen as a selection criterion and shall not exceed a defined level.

Participants in the public procurement procedure will be required to include in their price proposals a reasonable profit of up to 5%. The proposed limit is considered standard for the passenger transport sector and sufficient for a subsidized service. The draft contract includes provisions for audits conducted by the Contracting Authority, as well as independent audits.

The contract allows for adjustments to passenger fare tariffs, as follows:

a) No more than once per calendar quarter, the tariff rates - either in full or in part - may be indexed using the inflation index;

b) in the event of a lasting and significant increase in the prices of fuel, electricity, infrastructure charges, or other goods and services comprising the operator’s operating costs, where such an increase exceeds the inflation index by more than 5%.

If the selected Contractor carries out both subsidized public service obligations and other commercial activities, separate accounting must be maintained for the public services.

In accordance with the principles set out in Articles 4 and 6 of Regulation (EC) No 1370/2007, the selected public service Contractors shall be compensated for the net financial effect, positive or negative, on incurred costs and generated revenues resulting from compliance with tariff obligations established through general rules, in a manner that prevents overcompensation. This does not affect the right of the competent authority to include public service obligations related to the setting of maximum fares in service procurement procedures.

The compensation parameters will be predetermined in an objective and transparent manner. The tender documentation will include formulas for calculating the compensation. Compensation will be based not only on train-kilometres completed, but also on a bonus-malus system reflecting key performance quality indicators.

**9. Subcontracting –** subcontracting is not envisaged. The Contracting Authority does not consider the use of subcontractors appropriate, given the division of the contract into separate regional lots.

**10. Key Quality Indicators –** Service quality indicators will be described in an annex to the Technical Specifications titled "Quality Indicators for the Provision of Transport Services.".

**11. Award Criterion**

The contract is planned to be awarded based on the “lowest price” criterion within the meaning of Article 70, paragraph 2, item 1 of the Public Procurement Act. The criterion for evaluating bids will be the average cost per train-kilometre.

When applying this criterion, it is assumed that the tender parameters include requirements that ensure service quality and that all offers admitted to evaluation comply with them. The “lowest price” criterion guarantees free competition, non-discrimination, and equal treatment of participants, while ensuring the efficient use of public funds.

**12. Selection Criteria**

The planned selection criteria will comply with EU and national legislation in the field of rail transport. It is considered reasonable and necessary that participants in the procedure:

a) hold a valid Passenger Rail Transport License issued in the Republic of Bulgaria or another EU Member State, valid throughout the EU, in accordance with Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area, as well as Bulgarian legislation—the Railway Transport Act and Ordinance No. 42 of 06.07.2001 on the licensing of railway undertakings for passenger and/or freight transport.

b) possess a Single Safety Certificate covering all lines of the national railway infrastructure of the Republic of Bulgaria, issued under Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety, as transposed into Bulgarian law, particularly the Railway Transport Act and Ordinance No. 59 of 05.12.2006 on railway safety management.

c) apply a quality management system to maintain the quality of services, in accordance with standard BDS EN ISO 9001:2015 or an equivalent, with a scope of application "Carriage of passengers by rail in international and domestic communication".

d) possess or be capable of ensuring access to rolling stock for service delivery by the contract’s effective date, in line with the 2025 Train Traffic Schedule.

e) not exceed the 5% threshold for “reasonable profit” in their price proposals.

Regarding the possibility of using the existing rolling stock of the current Contractor, participants in the procedure will be granted access to inspect the rolling stock allocated for service delivery in the relevant region, as well as to obtain information on its technical condition. The Technical Specifications will explicitly state that participants have the right to inspect the rolling stock designated for service delivery in the respective region, and access available documentation on its technical condition, up to the final deadline for submission of bids. In addition to the use of rolling stock provided by the Contracting Authority, Contractors may use their own and/or leased rolling stock.

**13. Indicative Timeline for the Procedure**

1. Development of **the draft** service description and scope for passenger rail transport – by 24 April 2025;
2. Preliminary review by European Commission services – 20 May 2025;

3) **Public consultation** on the draft – from June 2 to July 1, 2025;

4) Preparation of tender **documentation** for the selection of carriers – until 4 July 2025 (During the public consultation period, the working group/commission appointed by the Deputy Prime Minister and Minister of Transport and Communications will work on the draft documentation, including the draft contract);

5) Coordination of documentation with the European Commission – from 4 July to 18 July 2025;

6) Publication of prior information notice in the Official Journal of the European Union – by 24 July 2025;

7) **Announcement** of an open **procedure** for the selection of carriers – until 31 July 2025;

8) **Deadline for submission of offers** – by October 30, 2025;

9**) Evaluation** of offers and selection of Contractors – until 20 November 2025;

10) **Conclusion of contracts** with the selected carriers – until 31 December 2025. – *(Note: subject to the absence of appeals by participants in the procedure);*

11) **Start of service provision** under the new contracts – from the new annual Train Traffic Schedule on 13 December, 2026.