



PUBLIC SERVICE OBLIGATION (PSO) ROUTES IN EUROPE



ERA's summary and advice to members on the provisions and conditions
for operating Public Service Obligation (PSO) routes in Europe

This paper provides a summary of the regulatory framework on the nature, conditions and requirements set out in Articles 16-18 of the EU Air Services Regulation 1008/2008 governing Public Service

Obligation (PSO) routes. Further clarifications on the interpretation of the existing legislation are expected to be published by the European Commission in early 2017 by way of interpretative guidelines.

SUMMARY AND BACKGROUND

ERA members serve the parts of Europe where air transport is both vital and often the only mode available to residents in remote regions, islands and dispersed areas. EU Member States may award PSOs to maintain appropriate scheduled air

services on routes which are vital for the economic development of the region they serve.

PSO routes may be an option to member airlines' operations and this document is aimed at providing a concise summary on the current EU rules governing PSO routes.

1. Conditions for a PSO

PSOs are restrictions to the normal free provision of air transport services in the EU Internal Market. Their exceptional nature is justified by their importance in promoting connectivity and ensuring territorial cohesion, economic and social development in remote regions and islands on air routes that would otherwise not be economically viable under the following conditions:

- **Transparency-1:** All awards, modifications and any abolition of PSO routes, as well as the corresponding calls for tenders, must be announced in the Official Journal of the European Union (OJ EU).
- **Transparency-2:** Air fares and conditions can be quoted to users (in most cases maximum fares are imposed).
- **Market failure:** Market forces alone have failed to create incentives for air carriers to provide scheduled air services on the route.
- **No obstacle to market functioning:** A PSO should not limit the possibility for air carriers to provide a higher level of service in terms of capacity and frequency than minimum obligations required under the PSO award. National authorities should not interfere with the way the market fulfils these obligations. In any case where more than one carrier is interested to operate a route as an open PSO, national authorities should not distribute frequencies or capacities between those air carriers concerned.
- **Necessity:** Routes are considered vital for the economic and social development of the region served (routes to an airport serving a peripheral or development region or thin routes to any airport).
- **Proportionality & non-discrimination:** PSOs are a useful tool to enhance the contribution of aviation to the overall competitiveness of the regions concerned. They must be imposed in a non-discriminatory and proportionate manner (e.g. no restrictions based on passenger's nationality or on the air carrier's state of origin, no selective promotion of specific air carriers/airports).
- **No alternative:** Inadequacy of alternative transport modes connecting the route(s) under PSO.
- **EU law:** Full compliance with EU Regulation 1008/2008 (compliance with national law only is insufficient).
- **Route-by-route basis:** Necessity of PSO award must be assessed for each route separately (no network routes). A PSO cannot link two cities or two regions, routes must be defined from airport to airport. States may not make the award to one route

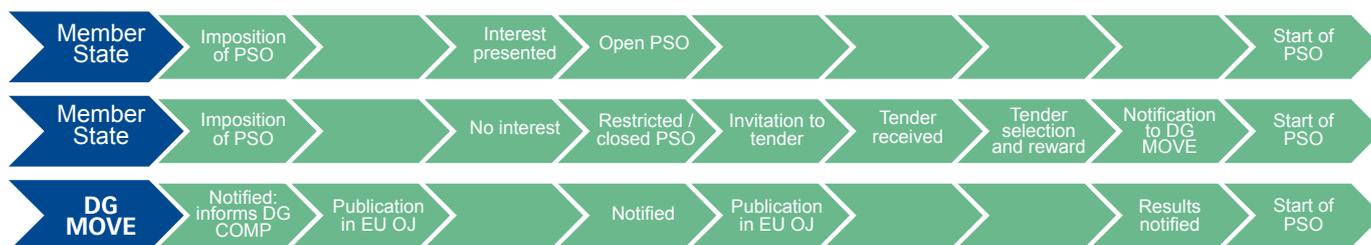


Figure 1: how to put in place a PSO

dependent upon the access to another route, as each PSO route needs to be assessed separately.

- **Geographic scope:** A PSO route between an EU airport and a non-EU (except EEA members) country is not allowed. Intra-EU routes (not exclusively domestic) are however allowed.
- **Types of PSO:**
 - a) Open PSO** (21.5% of total routes): any air carrier can operate the PSO if it complies with their requirements; no exclusivity; no compensation granted.
 - b) Restricted PSO** (78.5% of total routes): in case no air carrier is interested in operating the route on which the obligations have been imposed, the State concerned may restrict the access to the route to a single air carrier and compensate its operational losses resulting from the PSO. The selection of the operator must be made by public tender at Community level: only one air carrier can operate the PSO (call for tender/selection/award); if exclusivity is not sufficient to ensure the financial viability of service, then compensation is awarded.
- **Routes group:** States can publish tenders on a group of PSO routes for operational (i.e. exclusivity to one carrier for a group of thin routes with operational complementarities such as an isolated archipelago) and administrative (i.e. a single invitation to tender covering different routes that may be awarded to one or several air carriers) efficiency.
- **Stricter rules for restricted PSOs:**
 - a)** tender is open to EU or EEA carriers only;
 - b)** selection as soon as possible;
 - c)** contract awarded for four years (five years for outermost regions);
 - d)** bid selection criteria: adequacy of service offered and level of compensation;
 - e)** compensation level must not exceed the amount required to cover the net costs incurred in discharging each.

2. Duration of PSOs:

- **Expiration:** there is no limitation in time for a PSO award but after 12 months, if no service is started, a PSO award shall be deemed to have expired.
- **Modification:** the same procedures as for the new PSO (PSO to be assessed by the Member State).
- **Renewal:** the call for tender for a renewed PSO contract period and the information notice to be published in the EU OJ six months before the projected start of any new concession.



3. Information on PSOs

- **Inter-institutional:** notices and calls for tenders to be communicated by States to the European Commission. For routes below 10,000 pax/year, the information notice shall be published either in the Official Journal of the European Union or in the national official journal of the Member State concerned.
- **Timing:** information notices on call for tenders to be published six months before the new concession in case of renewal of a restricted PSO.
- **Public:** notices to be published in:
 - a)** EU Official Journal;
 - b)** European Commission (DG MOVE) website: http://ec.europa.eu/transport/modes/air/internal-market/public-service-obligations-psos_en
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ERA'S ACTIVITIES, ACTIONS AND FURTHER INFORMATION

ERA welcomed the European Commission's acknowledgement, in its Aviation Strategy document (December 2015), of the value of regional connectivity.

In its August 2016 response to the Commission's formal consultation, ERA urged EU decision makers to propose new policies to promote and encourage European connectivity through the greater use of PSO regimes and to be consistent in the application of PSO legislation across EU member states.

ERA recommended that the Commission ensure a more transparent, non-discriminatory, uniform and consistent implementation and enforcement of existing PSO rules across Europe are delivered. Based on the consultation results, the Commission is expected to

issue interpretative guidelines on PSO legislation in the first quarter of 2017.

Although additional efforts are needed for further consistency in its implementation and enforcement, the existing EU legislation on PSO (Regulation 1008/2008) has largely proved fit for purpose in:

- ensuring connectivity when the market does not deliver it;
- ensuring connectivity at a relatively low cost (approximately €300 million a year across Europe) when compared to the huge amount of subsidies received by other modes of transport;
- ensuring connectivity through a transparent, non-discriminatory and open selection process or publication of PSO notices.

All further updates on these topics will be posted on ERA's website at:
www.eraa.org/policy/financial-regulation/public-service-obligations-psy



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