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**PROCUREMENT PROCEDURE FOR TRANSPORT
SERVICES BY PUBLIC PASSENGER TRANSPORT IN
THE SLOVAK REPUBLIC**

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1. INTRODUCTION

Public passenger transport has an irreplaceable role in whole European Union (EU) as well as all over the world. It is one of the assumptions to meet basic human needs as well as for proper functioning of the national economy. The aim of transport serviceability is to ensure the access to basic population's needs such as work, health, and education particularly in the time of low demand. Under current conditions in terms of general economic interest, the public passenger transport services cannot be always provided on a commercial basis because the services are often unprofitable from the perspective of public service operators and thus revenue from fares do not always cover the costs. Therefore, public transport services have to be funded from public resources. At present, the following mechanisms for ensuring transport service provision are used:

- the award of exclusive rights to public service operators and
- the grant of financial compensation to public service operators.

The mentioned principles are also incorporated in EU legislation – Regulation (EC) No 1370/2007 on public passenger transport services by rail and by road. The regulation came into force in 2009 and it has brought the restrictions particularly in area of direct award of public service contracts. It was also adopted in order to ensure that financial support is transparent and efficient. The regulation requires the public authorities to ensure provision of public transport services in an effective manner.

Currently in the Slovak Republic, the need for funding public passenger transport (mainly in suburban bus service) is constantly growing, and therefore, it is necessary to use appropriate mechanisms for award of contracts and implement proper elements into contractual relationships. The elements should motivate the public service operators to efficient and economical provision of transport services, in particular to reducing costs, increasing service quality and thereby the increasing interest in public transport from passengers' side.

The main reason for introducing a competitive tendering in area of public transport is to decrease societal costs for public transport provision and/or to enhance service quality. The procurement process could represent a tool for achieving higher economic efficiency of the funds spent in providing public transport services. The value obtained from the funds spent includes obtaining the maximum economic, social and environmental benefits from a realized activity at the lowest possible total costs associated with planning, designing, acquisition, and operation.

Given that there is no experience with public procurement in public passenger transport in the Slovak Republic (SR), the objective of this paper is to propose procedures (a methodology) for public procurement of public transport services in the SR and to outline the issues which should be solved from the position of public authorities responsible for transport service provision. The paper also summarises experience with public procurement abroad with the focus on savings in unit costs.

2. ANALYSIS OF REGULATORY FRAMEWORK

The basis of an effective social, economic and environmental policy is effective functioning public transport sector. When organizing and financing public transport services, a definition of the legal framework, within which the services can be provided, is very important. The regulatory framework for transport service provision in the SR consists mainly of:

- Regulation (EC) No. 1370/2007 which stipulates general rules and a compulsory content of public service contracts, awarding procedures, compensation for services provided in general interest, and compulsory publication.
- Act No. 56/2012 Coll. on road transport which lays down conditions for business in the road transport sector such as bus service.
- Act No. 514/2009 Coll. on the transport on railroads which stipulates conditions for business in the railway sector.

The regulation has brought the restrictions particularly in area of direct award of public service contracts. Direct award of public service contract is only possible when the average annual value of the services provided is estimated to be less than 1 000 000 € or services in relation with public interest are provided in the range of less than 300 000 kilometres of public passenger transport services per year. The limit of 1 000 000 € increases up to 2 000 000 € per year and the limit of 300 000 kilometres increases up to 600 000 kilometres in the case of direct award of public service contract to a small or medium-sized enterprise that does not operate more than 23 vehicles. Otherwise, a competitive tendering must be employed. Basic principles in procurement are non-discrimination, transparency and equal treatment. It means that equal treatment (e.g. equal qualifying conditions) during the procurement process shall be applied to domestic tenderers as well as to those from EU Member States without any discrimination. Transparency means that all important information relating to procurement will be available for the public and thus all potential tenderers. For both cases (direct award and competitive tendering), a preliminary information notice must be published in Official Journal of EU at least one year before beginning of awarding procedure.

3. ANALYSIS OF PUBLIC TRANSPORT PROVISION IN THE SLOVAK REPUBLIC

3.1. Bus Service in the SR

Provision of public bus service is ordered and funded from the position of public authorities – self-governing regions. Majority of public authorities in the Slovak Republic (SR) has

contracted with public service operators for 10 years before the Regulation came into force in 2009 (Tab. 1). This means that the Regulation will be fully applied in the SR conditions between the years 2018 – 2019. Taking into account the restrictions of Regulation (EC) No. 1370/2007 for the direct award, the next (future) public service contracts will have to be concluded through a competitive tendering.

Table 1. Overview of public service contracts concluded for suburban bus service in the SR

Competent public authority	Bus service operator	Contract duration	Reasonable profit [%]
Zilina self-governing region	SAD Zilina, a.s.	01.12.2009 – 29.11.2019	3
	SAD LIORBUS, a.s.		
Presov self-governing region	SAD Humenne, a.s.	01.04.2009 – 31.12.2018	3
	SAD Poprad, a.s.		
	Bus Karpaty spol. s.r.o.		
Banska Bystrica self-governing region	SAD Lucenec, a.s.	01.01.2009 – 31.12.2018	koef. of inflation + 3
	SAD Zvolen, a.s.		
Nitra self-governing region	SAD Nove Zámky, a.s.	01.02.2010 – 31.12.2015	3.5
Kosice self-governing region	Eurobus, a.s.	01.01.2009 – 08.12.2017	4
	SAD Michalovce, a.s.		
Bratislava self-governing region	Slovak Lines, a.s.	01.01.2009 – 31.07.2017	4

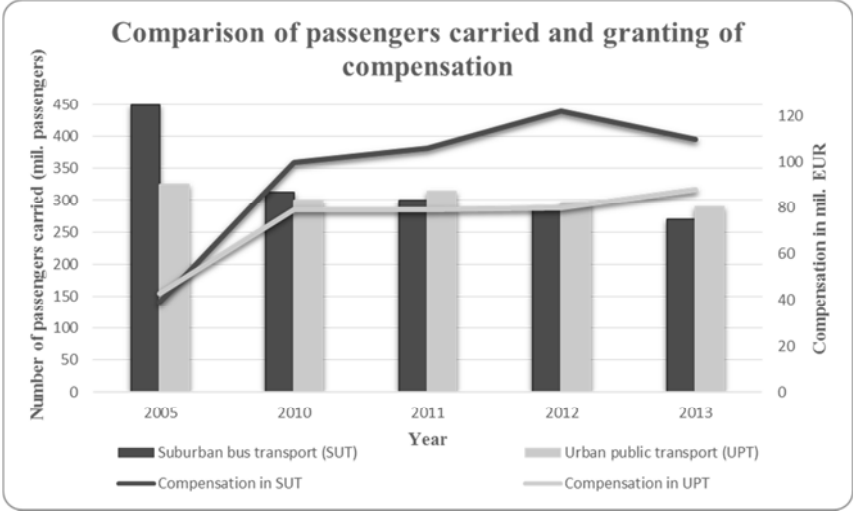
Source: authors based on the existing service contracts

According to existing contracts, the authority awards the exclusive rights to a particular operator and this enables the operator to provide public transport services. Moreover, the authority grants a financial compensation to the operator in the case that fare revenue does not cover the operator's costs. In addition to reimbursement of costs, the operator is entitled to a reasonable profit (Tab. 1). A similar system of contracts exists also in other countries of Central Europe (e.g. the Czech Republic, Hungary, and Poland). However, it is questionable whether determination of the reasonable profit as a percentage of costs is economic correct. Thus in such case, service operators are not motivated to decrease costs. The authorities are obligated to assume all economically justified costs calculated by operators. However, it is problematic for authorities to control eligibility of individual cost items.

3.2. Overview of Performance and Financing in Bus Service in the SR

In terms of performance of public bus service, negative development can be seen in both public urban transport and suburban bus service (Fig. 1). The decrease is more significant in case of suburban bus service. In 2013, performance of suburban bus service decreased by 40 % compared to 2005. This development is also adversely affected by increases in individual automobile transport. According to Statistical Office of the SR and Ministry of Transport of the SR, population increased approximately by 0.5 % in 2013 compared to 2005. But, number

of registered passenger cars increased by 44 %. Demand for public transport is decreasing, and thus public authorities should find a way how to make public transport more attractive for potential passengers. This can be done through the effectively designed offer of transport services and guarantee of minimum quality (e.g. parameters of buses – low-entry or low-floor buses, a minimum capacity, buses equipped with air conditioning; availability - the maximum walking distance to the bus stop; and dependability – reliability of arrivals and departures). As these services cannot be provided on a commercial basis, they need to be financed from public funds. There can be seen an increased need for financial compensation from the position of public authorities (Fig. 1). In case of suburban bus service, level of compensation increased by 182 % in 2013 compared to 2005. In terms of public urban transport (relating to only buses), the increase represents 105 %.



Source: authors based on Statistical Office of the SR

Figure 1: Overview of performance and financing in bus service in the SR

3.3. Railway Passenger Transport in the SR

Area of financing public rail transport is within the competence of state (Ministry of Transport, Construction and Regional Development) despite the efforts to transfer some competence to self-governing regions. Currently, provision of railway passenger services in general interest is ensured based on two public service contracts (Tab. 2). The contract were awarded based on the direct award of a contract.

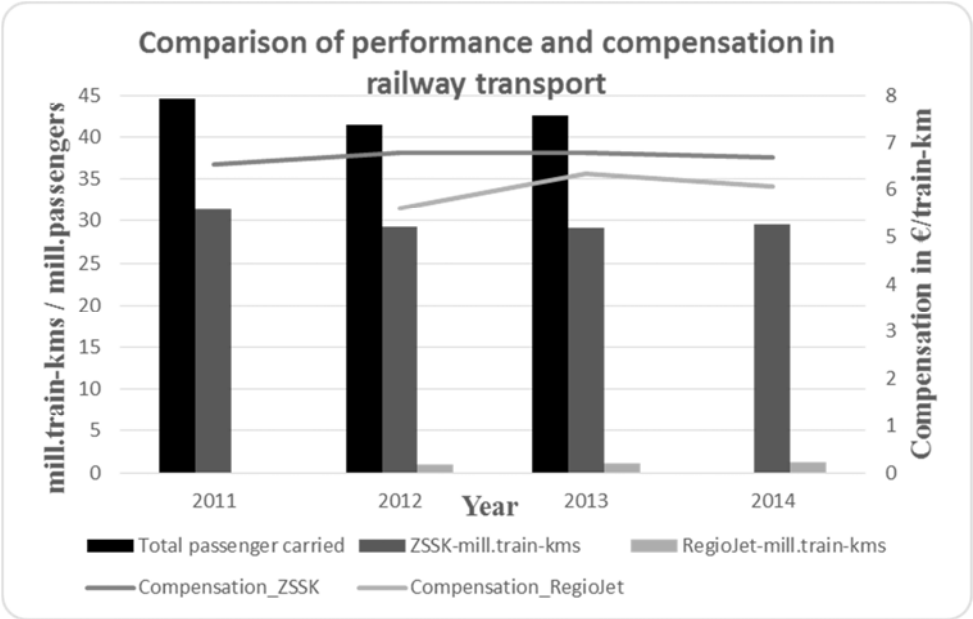
Table 2. Overview of public service contracts concluded for railway transport in the SR

Competent public authority	Service operator	Contract duration
Ministry of Transport, Construction and Regional Development of the SR	ZSSK, a.s.	January 2011 – December 2020
	RegioJet, a.s.	March 2012 – December 2020

Source: authors based on the existing service contracts

3.4. Overview of Performance and Financing in Railway Passenger Transport in the SR

In terms of performance, ZSSK, a.s. company is a dominant service operator. Proportion of services provided by RegioJet, a.s. company represent approximately 4 % of the total annual performance (in train-kilometres). The range of services ordered in the public interest changed only slightly for ZSSK, a.s. in the period of 2011 – 2014. It represents a decrease of 5.7 % in 2014 compared to 2011. In case of RegioJet company, performance ordered from the position of Ministry of Transport increased by 15 % comparing the period 2012 – 2014. Regarding total number of passengers carried, there can be seen stagnant development (Fig. 2).



Source: authors based on Statistical Office of the SR and Ministry of Transport

Figure 2: Overview of performance and financing in railway transport in the SR

4. EXPERIENCE WITH CONTRACTING IN PUBLIC PASSENGER TRANSPORT ABROAD

Public passenger transport can be organised in various ways which may differ not only from the perspective of different countries but also at the level of regions or cities of a given country. Influencing factors are, for example, a division of competencies between the authority and operator, risk allocation between contractual parties, the issue of ownership of infrastructure and transport means, a structure of financing, and etc.

Various methods of contracting exists in practice of providing public transport services. Table 3 summarizes the contracts commonly used for providing transport service abroad. The most used award procedure is a competitive tendering which often brought costs savings for public

authorities. But in some cases, also the direct award, negotiation with the previous service provider, and competitive tendering with pre-selection are used. In terms of a contract scope, the most frequently concluded contract is a network contract. By using this type of contract, public authorities often pursue promotion of the integration of transport systems. The commonly used contracts are gross cost contract and net cost contracts. Management contracts are less used and they can be seen, for example, in France. In general, the contracts incorporate several type of incentives, for example, quality and passenger incentives. Public authorities can pursue their political objectives through introduction of incentives into a contract, for example, increase in transported passengers, improvement in service quality, promotion of public passenger transport against to individual motoring, the environmental protection, improving city life. The most frequent contractual period is 5 years with the possible extension after satisfactory performance of the contract.

In the case of rail passenger transport, this period can be longer, for example, 14 years for city of Krakow. In many cases, the extension of contractual period based on satisfying performance of contracts is a part of public service contracts.

Table 3. Overview of contracting in public passenger transport abroad

City	Contract with:		Contract for:		Contract period (years)	Incentives for:			
	gross cost	net cost	route or bundle of routes	network		quality	Number of passengers	environ. protection	realised perform. [km]
Budapest *		X		x	8				
Dublin	x		x		5+5		x		
Brussels *		x		x	5		x		
Amsterdam *		x		x	5				
Haarlem		x		x	2	x	x		
Grenland		x			5		x		x
Stockholm	x			x	5+5	x			
Halmstad	x			x	8		x		
Sundsvall		x		x	6	x			
Elmshorn	x			x	5		x		
Frankfurt/M	x			x	6	x		X	
Munich	x		x		6-7				
Warsaw	x		x		10				
Krakow *	x			x	8/14				
London	x		x		5+2	x			
Manchester		x	x		5				
Adelaide	x			x	5+5		x		

*direct award

Source: authors based on van de Velde et al. (2008)

4.1. The Impact of Competitive Tendering on the Costs of Public Authorities

Economic impact of competitive tendering is a frequent topic in area of providing transport services in recent years. It should be noted that in practice there are differences between cost savings achieved after the first round of competitive tendering and cost savings in subsequent rounds of competitive tendering. Table 4 shows the cost savings achieved in mentioned cases. The results in subsequent rounds were usually increase of unit costs and tender prices compared to situation from the first rounds (Tab. 4). The increase could be associated with increased demands on service quality that were included in contract, e.g. use of low-floor buses or lower age of vehicles. Also, it could be attributed to better experience of bidders while estimating costs and submitting bids. Last but not least, inflation, labour costs and fuel prices have influence in this area

Table 4. Cost savings achieved after 1th and subsequent rounds of competitive tendering

The results of the 1th round of competitive tendering			
Country	City	The start and gradual introducing competitive tendering	Unit cost savings in %
Great Britain	London	1985 - 2000	51%
	Rest of GB	1986 - 1999	54%
Norway	Lillehammer	1994	21%
Sweden	Stockholm	1989	20 % – 32 %
	Helsingborg	1992	27%
Finland	Helsinki	1995	17 % – 34 %
Denmark	Copenhagen	1990 - 2002	24 %
Netherlands	Amersfoort	2002	37 %
Italy	Rome	2001	8 %
Australia	Perth	1995 - 1998	22 %
The results of subsequent rounds of competitive tendering			Increase/decrease compared to the 1. rounds
Great Britain	London	2000 - 2001	58 % – 63 %
	Rest of GB	1998 -2002	10 % – 20 %
Norway	Lillehammer	1996 - 2000	45 %
		2000 - 2001	33 %
Finland	Helsinki	1997 - 1998	1 % – 3 %
		2000 - 2001	9 % – 15 %
Denmark	Copenhagen	1990 - 2003	-13%

Source: authors based on Hensher (2005), Bray (2008)

5. PROPOSAL FOR PUBLIC PROCUREMENT OF PUBLIC TRANSPORT SERVICES IN THE SR

Properly concluded contractual relationship allows the creation of a strong partnership through which the authorities can pursue their policy objectives. Such a partnership should prevent from neglecting fulfilment of the tasks or abusing position of one from parties. The key factor for providing public transport services is an adequate regulatory framework and contracting conditions that should be set to support the competitive behaviour of bidders – service providers. The process of public service procurement is complex and consists of several procedural steps which must be done from authorities' position. Given that there is no experience with public procurement in public passenger transport in the SR, this paper proposes procedures for public procurement of public transport services in the SR and outlines the issues which should be solved from the position of public authorities responsible for transport service provision.

5.1. Need for a Change in Competencies in Transport Service Provision

A competent authority responsible for provision of railway passenger transport is Ministry of Transport, Construction and Regional Development of the SR. Competencies in provision of suburban bus service have been transferred to individual self-governing regions. This fragmentation of competencies while ensuring transport services may cause problems in effort to provide the services in effective manner and to eliminate a share of concurrent lines from the position of self-governing regions. The transfer of competencies within regional public passenger transport to individual self-governing regions could also help in establishment of an integrated transport system in a region. Despite several attempts, there has not been created such system in the SR yet. A barrier of effective transport provision is also the fact that there are compiled two plans of transport serviceability for a given region (one for railway transport and one for bus service – Act No. 514/2009 Coll., Act No. 56/2012 Coll.). Thus, public transport is not addressed comprehensively in the territory.

Based on above, it can be concluded that legislative shortcomings exist in area of public passenger transport in the SR. It would require one legal regulation for both railway and bus transport for regulating transport passenger services provided in general interest. Solution can be also seen in the transfer of competencies in railway transport to particular self-governing regions. This would enable to compile one plan of transport serviceability for the entire territory. Self-governing regions would have a greater impact on the coordination of timetables and determination of transferring terminals between transport modes.

5.2. Proposal for Compiling Plan of Transport Serviceability

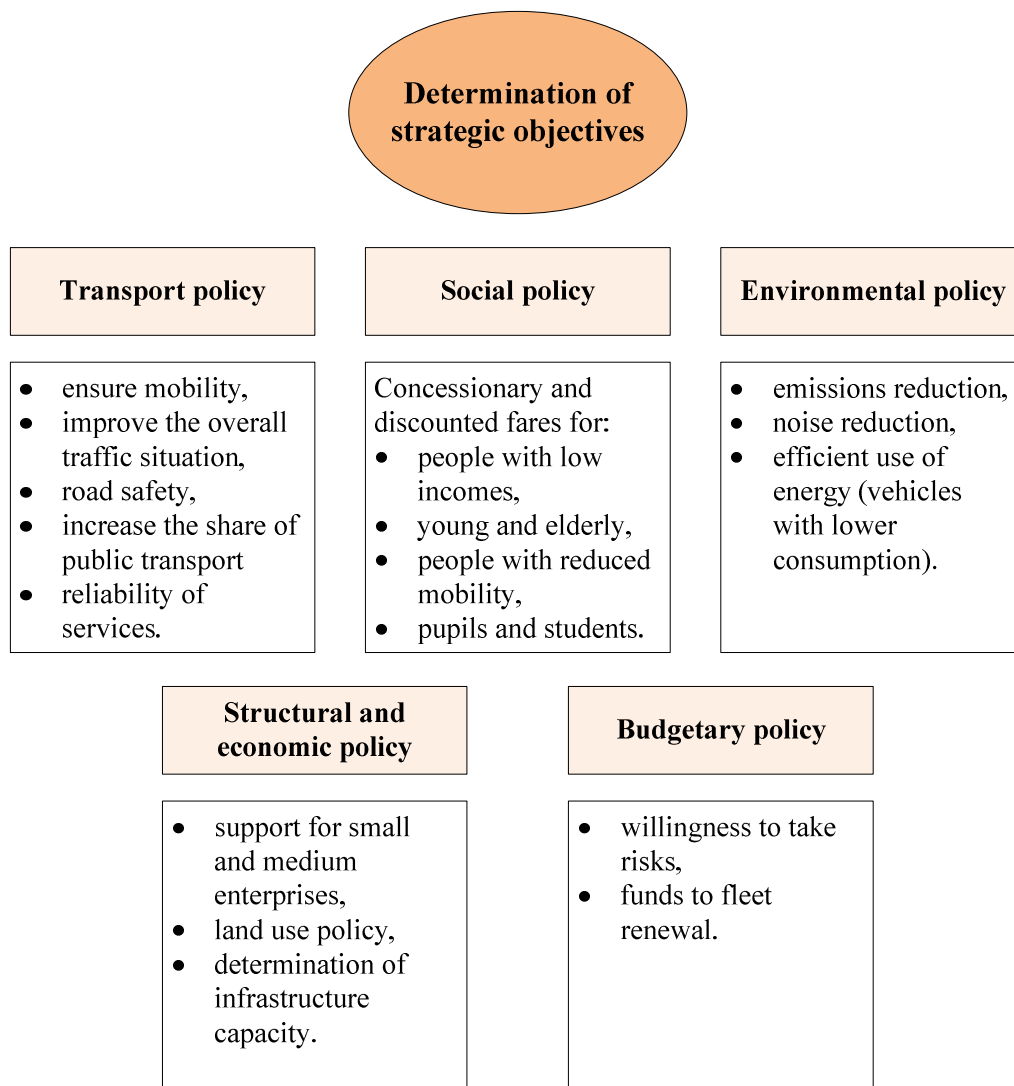
Optimization of transport services of a territory by public passenger transport means effective creation of the offer of transport performance in public passenger transport, especially in terms of satisfying the transportation needs of people living in the served area by effective spending of public resources.

Slovak legislation (Act No. 514/2009 Coll, Act No. 56/2012) does not address in detail what a plan of serviceability should include. As this plan is very essential for public procurement of transport services this paper proposes to supplement the plan with following information:

- identification of objectives and local constraints
- definition of the risks in public transport and its allocation between parties,
- determination of a contract type and scope,
- definition of the minimal service quality,
- ways of controlling and monitoring, including determination of incentives for a service operator.

5.2.1. Identification of Objectives and Analysis of Local Constraints

Good service quality can be achieved through the clearly defined objectives. At strategic level, these objectives can be economic (maximize the effectiveness and efficiency of resource use in providing services), environmental (reduce the negative impacts of transport on the environment), social (ensure that all people have the opportunity of mobility regardless of their personal situation), governmental (give people the opportunity to influence the travel policy and thus to ensure responsible planning and the process of service delivery) (Stanley, van de Velde, 2008). The political objectives typical for public transport can be seen in Fig. 3. Subsequently, the objectives should be confronted with the existing local conditions and constraints. The following local constraints should be analysed and taken into account: legal restrictions (e.g. Regulation (EC) No 1370/2007 – restrictions for award procedure), economical constraints (public budgets), restrictions of the existing transport system (infrastructure, vehicle fleet age).



Source: authors based on van de Velde (2008)

Figure 3: Determination of strategic objective for public passenger transport

5.2.2. Risk Allocation and Type of a Public Service Contract

Basically, the forms of individual contracts differ in an allocation of risks between contractual parties and the resulting structure of payments. The contract forms are as follows (Tab. 5):

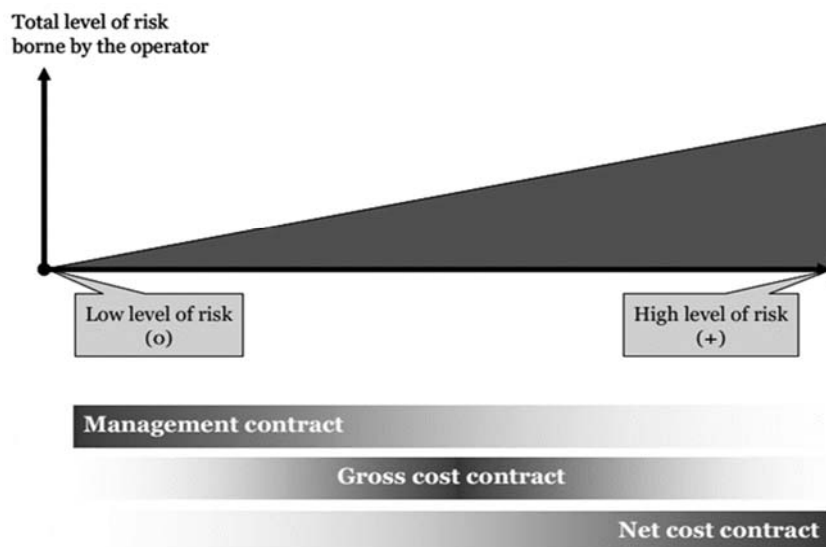
- *management contract*, where an operator bears no risk; cost and revenue risk are borne by an authority,
- *gross cost contract*, where an operator bears cost risk; the risk from difference between anticipated and actual costs in the end of period and an authority bears the risk from difference between anticipated and actual revenue
- *net cost contract*, where an operator bears cost and revenue risk. In this case the operator bears the risk from difference between anticipated and actual costs/revenue, which are identified in the end of contract period. The authority pays only compensation which is agreed before realized performance to the operator. This means that the authority bears no risk (Poliak et al., 2013).

Table 5. Different contract types depending on the risk allocation

Revenue risks assumed by:	Cost risks assumed by:		
		public authority	service operator
	public authority	Management contract	Gross cost contract
service operator		Net cost contract	

Source: authors

Figure 4 depicts the level of the risk assumed by a service operator under particular contracts. Under the net cost contract, service operators assume the highest level of the risk.



Source: van de Velde (2008)

Figure 4: The level of the risk assumed by a service operator under particular contracts

Certain flexibility should be also incorporated in contracts because of changes in external factors, political aims or passenger needs. It is necessary to note that the longer the contract period, the more increases the need for flexibility of the contract.

5.3. Proposal for Contract Scope in the Process of Preparation for Public Procurement in the SR

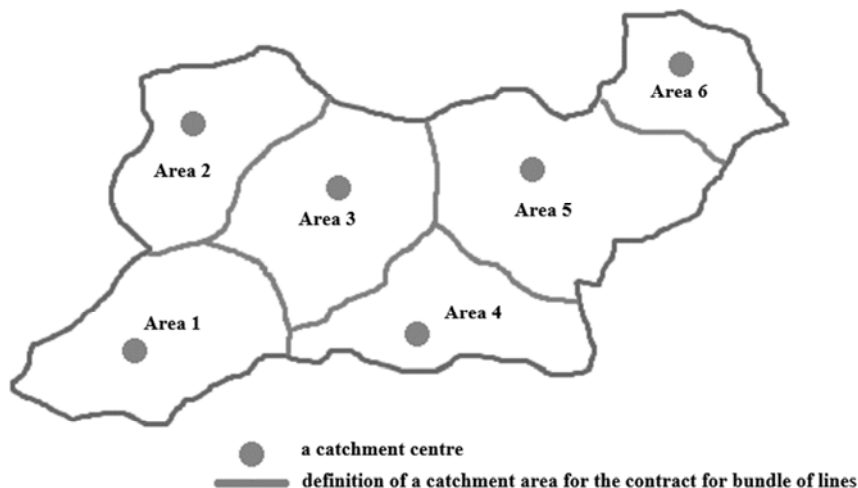
After the expiry of existing service contracts, public procurement of transport services will be required in most cases in the SR (mainly in suburban bus service). After the expiry of existing service contracts, public procurement of transport services will be required in most cases in the SR (mainly in suburban bus service). This process will be repeated periodically and thus public authorities should consider establishing a department within its organizational structure. This department would be focused only on processes of competitive tendering of transport services.

In terms of the scope of the contract, the public authority can decide on:

- route contracts – used for a specific bus line or can include a group of shorter bus lines located close to each other,
- network contracts – these contracts cover whole city territory and network of city public transport or they are related to more transport modes such as metro, bus, and tram,
- sub-network contracts – related only to a certain part of city (e.g. suburb of city) and only one mode of transport (van de Velde et al., 2008).

The recommendation of this paper is to gradually start with competitive tendering of selected lines (contracts for a bundle of lines) i.e. the contract of a smaller scope. One process for a competitive tendering for entire network can discourage or make impossible smaller service operators to submit a bid and compete in terms of complexity of the contract; and thus this may result in higher tender price for public authorities. On the contrary, the contract of very small scope (e.g. separate contract for each bus line) may result in a negative proportion of high fixed costs on transport performance.

Individual procurement processes would be conducted periodically depending on a chosen time schedule. Such gradual implementation of tenders allows enhancing the entire procurement process and to decompose individual tenders over time evenly in order to allow greater participation of bidders (service operators) and their better preparation for the process. The proposal is to create a bundle of lines in terms of operational and spatial coherence. Definition of individual areas (contracts: bundles of lines) should be made on the basis of catchment centres of a given region.



Source: authors

Figure 4: Example of the division of a territory in terms of preparing contracts for bundle of lines

5.4. Proposal for Time Schedule for Public Procurement of Transport Passenger Services in the SR

The overall process of public procurement is complex and consists of several procedural steps which must be done from public authorities' position. Also, this process is very time-consuming. Public authorities in the SR should be aware these facts because they will have to employ a competitive tendering after the expiry of currently concluded contracts. They must start a preparation process well in advance.

In order to determine the time schedule for a procurement process, the authors of the paper took into consideration the legislation of the EU (Regulation (EC) No. 1370/2007) and the SR (Act No. 25/2006 Coll. on public procurement).

Under the proposed time schedule, it is recommended for public authorities to start deal with the plan of transport serviceability at least three years before the expiry of current contracts. The proposed period for compiling the plan is 350 days. During this period, public authorities must collect number of high-quality input data in order to be able to identify and define the subject of contract and to determine its estimated value. Subsequently, public authorities must send a "prior information notice" of tender to Official Journal of the European Union. This notice must be sent at least one year before notice of tender - call for bids. After the prior information notice, tender documentation must be elaborated. It includes mainly a contract draft, participation conditions for bidders and guidelines for compiling a bid. The process itself of competitive tendering starts by publication of "call for bids" and ends by concluding the contract. The notice is also sent to Official Journal of the EU. Duration of tender process itself is proposed for the period of 200 days (Tab. 6)

Table 6. Time schedule of competitive tendering process itself

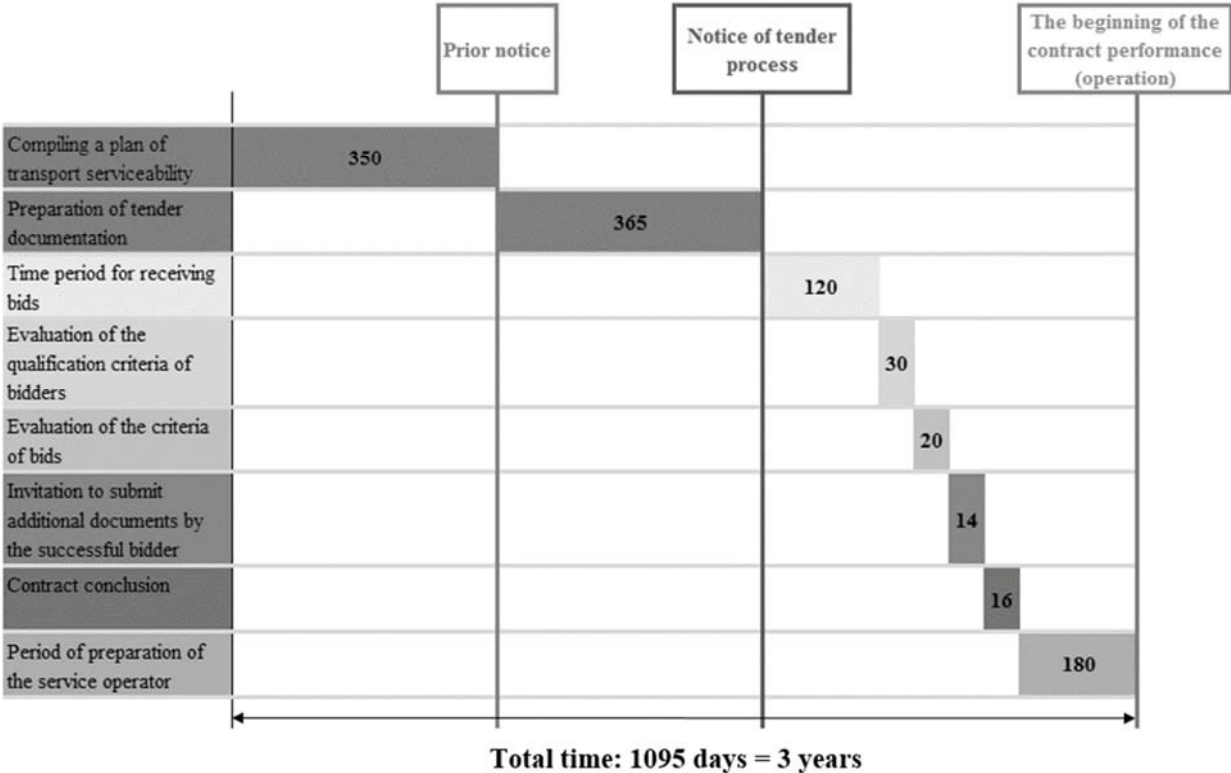
Time period for receiving bids from bidders	120 days
Opening envelopes: part "Others" + evaluating qualification criteria of bidders + compulsory documentation about the process	30 days
Opening envelopes: part "Criteria" + justification of very low price + compulsory documentation about the process	20 days
Invitation to submit additional documents by the successful tenderer	14 days
Concluding the public service contracts	16 days
Total	200 days

Source: authors

After concluding the contract, the authors propose the period of 180 days for the service operators in order to ensure technical and organizational conditions of the contract.

The total time needed for entire process related to public procurement of public passenger services is proposed and estimated approximately for 1 095 days (350 days for compiling a

plan of transport serviceability + 365 days (a minimum time needed for sending “prior information notice” before actual beginning of a competitive tendering process; time for preparation of tender documentation) + 200 days (duration of the competitive tendering process itself) + 180 days for the successful bidder – service operator to get ready for commencement of an operation)). The proposed time schedule of public procurement of public passenger services is depicted in Fig. 5.



Source: authors

Figure 5: Proposed time schedule of public procurement of public passenger services

6. CONCLUSION

The need for funding public passenger transport is constantly growing in the SR, in particular in suburban bus service. Therefore, it is necessary to implement proper elements into contractual relationships. The Regulation (EC) 1370/2007 have brought the changes mainly in area of direct awarding of contracts in providing transport services. Given that there is no experience with public procurement in public passenger transport in the SR, the objective of this paper was to propose procedures (a methodology) for public procurement of public transport services in the SR and to outline the issues which should be solved from the position of public authorities responsible for transport service provision.

Competitive tendering appears as an appropriate mechanism, the introduction of which can bring cost savings. This could be seen from the analysis of experience of contracting abroad.

Thanks to the cost savings it might be possible to release funds for the provision of any additional services or expanding the area of interest.

The process of public service procurement is very complex and consists of several procedural steps. The basis of each process should be sufficient preparation. Only good preparation can bring quality in services provided and effective use of public funds. Preparation of procurement process cannot be underestimated from the position of public authorities, because a properly concluded contractual relationship can prevent from neglecting fulfilment of the tasks or abusing position of one from parties. Public authorities must bear in mind that this process is also time-consuming and they must start a preparation process well in advance. However before introducing the competitive tendering of public passenger services in the SR, public authorities will have to solve legislative basis for competencies and responsibilities in area of railway transport and bus service.

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