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Annex A to Decision No 154/2019 of 29 November 2019

Regulatory measures on “Revision of Decision No 49/2015 - Measures for drawing up tender notices and related contracts for the award of local public services by rail and road and for setting the criteria for the appointment of tender evaluation committees, as well as for defining model public service contracts that are directly awarded or performed by internal operators or publicly-owned companies”.

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Definitions

For the purpose of these regulatory measures, the following definitions shall apply:

- a) *Assets acquired through public financing*: capital goods for the performance of LPT services that are purchased through public resources; they include both the assets related to investment account and those related to income (for which the contractual compensation takes into account the obligation for the CC to purchase/replace rolling stock or purchase/build infrastructure).
- b) *Authority (ART)*: Transport Regulation Authority.
- c) *Awarding Entity (AE)*: public body, or entity delegated by a public body, that is entrusted with the responsibility of awarding a public service contract to a company operating local public transport services, and is in charge of the operation, monitoring, verification and control of the contract. The AE may therefore be other than the public entity in charge of the service (infra). In this case, the relationship between the two parties shall be governed by a special agreement governing their duties, roles and split responsibilities. The agreement shall include, but is not limited to, the aspects relating to the quantity of the awarded service and relevant economic aspects, service planning, fares, required standards (e.g. commercial speed by line, type of vehicles to be used, fuel system, average/maximum age, minimum technological equipment), type and quantity of controls, investments, basic reporting, as well as any other aspect that is deemed relevant for the purpose of the PSC.
- d) *Body in charge of the service*: public body (region and local authorities) that are entrusted, pursuant to legislative decree no. 422/97, with "functions and duties (...) regarding public transport services of regional and local interest carried out by whichever mode and awarded in whichever form " (cf. Article 1 (1));
- e) *Contract value*: the "value" defined by art. 2 (k) of Regulation (EC) No 1370/2007.
- f) *Contracting Company (CC)*: public service operator, that enters into a new public service contract (PSC) with the competent AE, for the provision of local public transport services, whether it is a new operator or the incumbent operator (IO)¹.
- g) *Data access plan*: document (already referred to under Measure 3 (8) of Annex A to ART's Decision no. 16/2018) that is defined by the AE before the signing of the PSC, through the consultation of the main stakeholders, by identifying at least the following:
 - a) set of elementary data that shall be available to the AE;
 - b) method of data collection, that is differentiated into automatic (real time) and manual (final, as reported according to a specified time interval);
 - c) method of data access by third parties, in compliance with the restrictions on the processing of personal data and non-disclosable information due to industrial secrecy that is guaranteed by the AE, by facilitating the general criterion of "open access" in an editable format and with reference to real-time elementary data and online data request;
 - d) data provider, that is subject to mandatory transmission to the AE.
- h) *Debt Service Coverage Ratio (DSCR)*: bankability factor for enterprise's ability to produce sufficient flows to cover its debt (principal and interest); it is equal to the ratio of operating cash flow to debt servicing for interest, principal and lease payments.
- i) *Economic-Financial Plan (EFP)*: management planning document that includes the time development of economic, capital and financial data and indicators over the contract period. The EFP may be defined by the AE (hereafter: simulated EFP) or by the tender participant (TP) in the bidding stage (hereafter: tender EFP).

¹ Also included is the internal operator, a legally distinct entity over which a competent local authority, or in the case of a group of authorities at least one competent local authority, exercises control similar to that exercised over its own departments (TN) .

- j) *Incumbent Operator (IO)*: economic operator providing public transport services that are regulated under an expiring contract, which is subject to a new award procedure by the competent AE.
- k) *Instrumentality* (to be always referred to a local or regional authority): public body, special undertaking or company, including public agency or asset company, other than the service provider.
- l) *Key Performance Indicator (KPI)*: indicator that monitors the development of a business process and provides a benchmark to identify effectiveness and efficiency targets; for regional rail transport services, KPIs are defined by the Authority pursuant to Decision no. 120/2018 of 29 November 2018 (hereinafter: Decision no. 120/2018).
- m) *Loan Life Coverage Ratio (LLCR)*: bankability indicator for debt sustainability, given by the (cumulated and discounted) total cash-flows available for debt service (valued up to the last year of debt repayment), increased by the cash reserve for debt repayment, divided by the debt balance outstanding at the time of evaluation.
- n) *Local public transport (LPT) services*: “passenger transport services of general economic interest provided to the public on a non-discriminatory and continuous basis” (cf. art. 2 (a) of Regulation (EC) No 1370/2007) that are subject to public service obligations, which are provided by road (including trolley buses, funicular railways, trams and underground) and by rail at the local level (urban, suburban) and/or regional.
- o) *LPT company*: individual or aggregated economic operator, whether governed by public or private law, that provides local public passenger transport services by road and by rail (LPT), and any ancillary and support services.
- p) *Market value*: average price charged for the same or similar goods, under open access and at the same marketing stage.
- q) *Minimum quality standards*: minimum obligations and/or performance that are measured through qualitative and quantitative indicators and standards of passenger transport services that are subject to public service obligations, as identified according to territorial demand and supply characteristics, within the meaning of Article 37 (2) (d) of Decree-law no. 201 of 6 December 2011, converted, with amendments, into Law no. 214 of 22 December 2011 (hereinafter: Decree-law no. 201/2011). For local and national rail transport, the *minimum quality standards* are defined by the Authority pursuant to Decision no. 16/2018 of 8 February 2018 (hereinafter: Decision no. 16/2018).
- r) *Movable property*: e.g. hardware, software and other technological systems for performance control and assessment and for fleet monitoring (including *Automatic Vehicle Monitoring* systems, hereinafter: AVM) and related database, operation of facilities, and management of demand and ticketing data, with related database, and any other equivalent systems that are strictly necessary for the awarded services.
- s) *Net book value*: purchase cost of an asset net of relevant depreciation fund and of any residual value.
- t) *Net invested capital (NIC)*: capital contributed by the LPT company exclusively intended for the operation of the awarded services, that is relevant for the purpose of calculating the reasonable profit margin. The NIC results from the sum of “*net fixed assets and working capital net of any small-scale liabilities*” (cf. Annex 2 to Ministerial Decree no. 157/2018).
- u) *Networks, facilities and infrastructures*: e.g. tracks (for rail, underground and tram transport) and related passenger stations, bus terminals, stopping areas and related assets (range poles, shelters, any furniture), refuelling facilities (in particular for alternative fuels and/or electric traction) and technological monitoring safety systems on these networks, facilities and infrastructures. For passenger stations and related buildings for the different transport modes, common areas and facilities open to the public, ticket offices and other facilities including travel information systems, suitable space for ticketing services for local public transport services and ancillary systems are included. For rail, underground and tram transport, areas and

facilities for shunting and train composition are encompassed, including shunting areas, areas, facilities and buildings intended for rolling stock parking, shelter and storage, maintenance centres, except for rail transport, heavy maintenance facilities for high-speed trains or other rolling stock that require specialised centres. For road transport, depots and any other immovable property, facility or other equivalent asset.

- v) *Public Service Contract (PSC)*: agreement and contract as referred to in Article 37 (2) (f), first sentence of Decree-law no. 201/2011, Article 2 (i) of Regulation (EC) no. 1370/2007 and Article 19 of legislative decree no. 422/1997.
- w) *Public Service Obligations (PSO)*: requirement as defined or identified by a competent authority in order to ensure the provision of public passenger transport services in the general interest that an operator, if it were considering its own commercial interest, would not assume or would not assume to the same extent or under the same conditions without reward (Regulation (EC) no. 1370/2007, Article 2 (e)).
- x) *(Quality) Customer Charter*: document whereby a CC engages in a number of commitments to its users concerning its services, specifying, in particular, the ways they are provided, the quality standards and user information on the performance achieved and the customer protection, in accordance with the provisions of Article 2 (461) of Law no. 244 of 24 December 2007 (hereinafter: Law no. 244/2007), Prime Minister's Decree of 30 December 1998 and relevant existing regional provisions, if any.
- y) *Reasonable profit margin*: rate of return on capital as defined under paragraph 6 of the Annex to Regulation (EC) No. 1370/2007, that is applicable to any type of awarding.
- z) *Regulatory period*: period ranging from 3 to 5 years within the term of the PSC, in which effectiveness and efficiency targets are set and at the end of which the economic and financial equilibrium and the achievement of the aforementioned objectives are tested. The AE defines the minimum length of this period also in relation to the planned investments as provided for in the PSC.
- aa) *Replacement value*: cost of replacing the existing facilities with new installations with similar technological characteristics and capacity as the existing equipment.
- bb) *Report of award (RoA)*: document whereby the AE describes the outcome of the consultation procedure (in particular, with reference to regulation of essential/necessary capital goods, quality standards of the service to be awarded, transfer of personnel and data access plan), the criteria adopted to define the simulated EFP, the reasons to support the introduction of any additional participation requirement (in the case of a tendering procedure), as well as any other aspects of the award procedure that are deemed appropriate. It is within the remit of the AE to draw up the RoA together with the report provided for pursuant to art. 34 (20) of decree-law no. 179 of 18 October 2012, converted into law no. 221 of 17 December 2012, as amended, and to prepare a single document.
- cc) *Revamping*: term including the various types of work on rolling stock (that involve investments by AE, CC or third parties), including the plant renewal (e.g. air conditioning, lighting, video communication and surveillance), refurbishing/internal-external cleaning (e.g. wrapping, repainting, replacement of furniture/saddlery/glass/interior equipment), restyling and layout enhancement, including technological (passenger counting systems, wi-fi, electronic validators) and restructuring, including structural interventions on the body (e.g. underframe, windows, floor, doors, motor, sanitary facilities).
- dd) *Risk matrix*: document whereby the AE defines and allocates the risks between each of the contractual parties in the case of award of a concession.
- ee) *Rolling stock*: e.g. means equipped with any type of wheels and traction used for the transport of people for the purpose of the provision of the awarded LPT services, including first-stock spare parts and other assets that are strictly related to that transport.

- ff) *Stakeholder*: person, including collective persons, that is/are interested, whether directly or indirectly, in the proper operation and performance of local public transport services.
- gg) *Tender participant (TP)*: LPT company that meets the requirements laid down by the AE in the tender documents and therefore participates in the award procedure by presenting a technical and economic offer.

Measure 1 – Purpose and scope of the Measures

1. The present act lays down regulatory measures for the award of local public passenger transport services by rail and by road (hereinafter: LPT services), in accordance with the different procedures allowed by the law. The provisions shall apply both to contracts awarded by public procurement and to contracts awarded on a concession basis, as described in the table under Annex 1.
2. The measures contained herein are defined by reference to Article 37 (2) (a), (b), (c) and (f) of decree-law No 201/2011, as amended by Article 48 (6) (b) of Decree-law No 50 of 24 April 2017, converted, with amendments, into Law No 96 of 21 June 2017 (hereinafter: Decree-law No 50/2017, and in accordance with Article 48 (7), taking account of Article 27 (12-c) of Decree-law No 50/2017.
3. The measures shall be applied by the awarding entities (hereinafter: AE) of LPT services, by the contracting companies (hereinafter: CC) and incumbent operators of the services concerned (hereinafter: IO).
4. The measures provided for herein, except Measure 12 which is referred to under paragraph 6, shall apply:
 - a) in case of awarding by tendering procedure: to public service contracts (hereinafter: PSC) for which, in the case of open procedures, the tender notice is published after the date of entry into force of these measures, and, in the case of restricted procedures, the letters of invitation are sent after this date.
 - b) in case of direct awarding to any public service operator, included internal operators: to PSCs for which the decision approving the awarding is published after the date of entry into force of this regulatory act.
 - c) at the end of the regulatory period and, in any case, upon the contractual review of the PSC with simultaneous revision of the EFP.
5. In case of award procedures at an advanced stage of development, in order to avoid administrative burden, the AE may continue to apply the Measures referred to in Annex A of Decision no. 49/2015 of 17 June 2015 for the contracts referred to under 4 (a) and (b), for which, on the date of entry into force of this regulatory act, the notice of prior information referred to in article 7 (2) of Regulation (EC) No 1370/2007 has already been published, by giving adequate reasons thereof in the dossier of the award procedure and, in any case, without prejudice to the adjustment referred to under 4 (c).
6. Measure 12 concerning regulatory accounting and accounting separation shall apply to LPT companies operating road transport under a PSC as of the 1st of January 2021, by accounting therefor with the publication of the financial statements of the same year.
7. The Measures referred to in this act do not apply to public service contracts for which the publication of the above-mentioned notice of prior information is not provided for, pursuant to article 7 (2) of Regulation (EC) No 1370/2007.
8. The AE may extend the application of the measures provided for herein to public passenger transport services by inland waterway and to transport services on fixed installations (funiculars, cableways), in particular where these services are integrated into a wider urban, suburban or regional network.

Title I – PRELIMINARY STAGES FOR THE AWARD OF PUBLIC SERVICES

Chapter I - Regulatory measures concerning lots to be awarded, content of public service contracts and capital goods

Measure 2 - Criteria for the identification of award procedures and minimum mandatory content of public service contracts

1. The AE identifies the lots of LPT services to be awarded according to the criteria laid down in ART's Decision no. 48/2017 of 30 March 2017.
2. The AE drafts an *ad hoc* Report of Award (hereinafter: RoA), which forms an integral part of the dossier of the award procedure; the report shall be published on the AE's website and at the same time transmitted to the Authority for the purpose of its supervision, in order to ensure adequate transparency and assessment of the legitimacy of the choices. The Authority may provide remarks within 45 days of receipt of the aforementioned RoA.
3. Before starting the awarded service, the AE and the CC shall conclude a public service contract, in accordance with the minimum content referred to in Annex 2, which refer to the type of service to be awarded. The PSC scheme is attached to the dossier of the award procedure, as a substantial and integral part.

Measure 3 - Instrumental goods for the performance of the service

1. For the purpose of launching the award procedure of the LPT service, the AE prepares the list of capital goods that are required for carrying out the service that is covered by the new awarding; this shall be published together with the documents governing the procedure.
2. The list shall classify the goods, as far as possible, into the following three categories depending on their technical and functional features:
 - a) networks, facilities and infrastructures;
 - b) rolling stock;
 - c) movable property, including databases.

Measure 4 - Essential, necessary and commercial goods. Consultation of stakeholders.

1. Essential goods for the performance of the local public transport service are those instrumental goods for which the following conditions are cumulatively met:
 - a) shareability;
 - b) non-substitutability;
 - c) non-duplicability at socially sustainable cost;
 - d) dominance.
2. Necessary goods for the performance of the local public transport service are those instrumental goods for which the following conditions are cumulatively met:
 - a) non-shareability;
 - b) non-substitutability;
 - c) non-duplicability at socially sustainable cost.
3. For the essential and necessary goods referred to in paragraphs 1 and 2 above, guarantees shall be provided as to their full availability, or as to the availability of goods with the same characteristics, from the time the service is awarded; further, access to these goods shall be ensured, including for any training activities, in time for the takeover of the CC, in accordance with the procedures laid down in Measure 7.
4. Commercial goods, which are therefore neither essential nor necessary, for the performance of the local public transport service are those instrumental goods which do not meet all the characteristics under paragraphs 1 or 2 and are available on the market or duplicable at socially sustainable price or cost.

5. The identification of the essential and necessary goods by the AE, and of the relevant procedures for making them available, takes into account the outcome of the *ad hoc* stakeholder consultation referred to under (7).
6. Except in cases of direct award to the IO of the service having the same production volume and the same perimeter, the AE carries out a consultation, to be concluded within sixty days and, in any case, in time for the publication of the dossier of the award procedure, that is aimed at least at the following:
 - a) identification of essential/necessary goods made available by the IO or other owners, also with similar characteristics, within the limits of what is strictly necessary for the performance of the services put up for tender;
 - b) identification of the technical and functional characteristics of the aforementioned goods, of the economic and contractual terms for the takeover by the CC or of any other aspect concerning the regulation of capital goods;
 - c) definition of service quality standards, including the related certifications;
 - d) specification of (any) participation requirements to be held by the operators, in case of a tendering procedure;
 - e) identification of the personnel in charge of providing the service.The AE retains the right to extend the subject of the consultation to further elements of the award procedure and/or characteristics of the concerned services.
7. The consulted stakeholders shall comprise at least:
 - a) IO and potential interested competitors,
 - b) passengers and/or their associations,
 - c) rolling stock providers and other undertakings holding essential/necessary goods, also with similar characteristics.
8. Where the award procedure involves the construction of dedicated infrastructure in equipped areas, the above-mentioned consultation shall involve the local authorities in charge of urban and territorial policies and the holders of property rights or use of property, so as to verify that the areas concerned are available and not subject to any constraints.
9. In the context of the consultation, the AE shall define the “Data access plan”, by specifying the procedures to access data, information and documents by third parties.
10. The EA shall publish anonymously, on its institutional website, the remarks received in the consultation procedure, by deleting the parts containing commercially sensitive information and data, if the participant has filed a request for confidentiality.
11. The consultation procedure shall not distort competition and shall not entail a breach of the non-discrimination and transparency principles. Where a competitor, tenderer or related undertaking has taken part in the consultation procedure, the AE shall take all necessary measures to ensure that competition is not distorted by the participation of the competitor or tenderer concerned.
12. Where, as a result of the consultation procedure, the AE identifies immovable property of a commercial nature, that is instrumental to the performance of the service, it shall establish a reasonable term between the date the service is awarded and the date it is started, in order to allow, where necessary, the acquisition of these assets by the CC.
13. In the context of the RoA, the AE shall describe the outcome of the above-mentioned consultation procedure.

Measure 5 - Rolling Stock

1. In order to verify the indispensability of rolling stock, the AE shall take account of the following:
 - a) characteristics of the services to be awarded (schedule of operations) and of the mobility area concerned;
 - b) performance standards required;

- c) vehicle fleet characteristics (also taking into account the investments planned for its renewal) and remaining useful life of rolling stock;
 - d) timing for supply.
2. If the AE classifies rolling stock as a necessary good for the performance of the service, having verified the availability of the goods owned by the IO or by a third party, the AE shall provide the appropriate guarantees that the equipment is made available to the CC, by including in the dossier of the award procedure the information referred to in Annex 6, Table 3, "Rolling Stock".
3. Where the AE classifies the rolling stock as a commercial good, it shall set out a reasonable deadline between the date of awarding of the service and the date the service is started, in order to enable the CC, where necessary, to procure the rolling stock that is instrumental to the performance of the service. To identify this deadline, the AE shall take into account:
 - a) estimates arising from dedicated surveys carried out with rolling stock manufacturers; the estimates shall consider the non-binding nature for rolling-stock suppliers of the statements made during the surveys and their actual production capacity, including for other tender procedures, in the relevant markets, for the award of similar transport services;
 - b) presence in the market of companies and/or operators providing rental of the rolling stock concerned, under fair and non-discriminatory conditions;
 - c) quantity, specificity and complexity of the material required, with particular reference to the railway sector, also with regard to the time needed to obtain the certification required by law or the approval of the equipment, and the time needed for staff training;
 - d) availability of the IO to transfer to the CC, for consideration, the rolling stock used in the service to be awarded.
4. The availability of the rolling stock that is necessary for the service performance shall be guaranteed by the CC only as from the commencement of the contract, and is a precondition for the signing of the PSC; therefore, such availability may not be required as a pre-requisite for admission of the tender participants (hereinafter: TP).
5. By virtue of a provision of law or of the PSC or other negotiated agreement, the IO may be required to ensure that rolling stock is available for lease or otherwise expressly established, until the entry into operation of the CC's material for the performance of the service.
6. In the context of the RoA, the AE shall specify the measures adopted to ensure effective and non-discriminatory access to the rolling stock concerned.

Measure 6 - Instrumental goods acquired through public funding

1. For each good instrumental to the performance of the awarded services, where it is procured through public financing, in compliance with the provisions of the law, the financing entity shall impose a restriction on use for the period specified by law, and establish its length based on the useful life and the share of the assigned public resources compared to the total value; these goods are transferred to the CC according to the procedures set out in Measure 7, without prejudice to the provisions of paragraph 4 below.
2. The value of the transferred goods is determined according to the procedures provided for in Measure 9, in case of takeover, or in Measure 10, in case of lease. Where the public contribution has not been directly deducted from the cost of the relevant goods, the share of public contribution, as resulting from the accounts, shall constitute public financing for the CC, taking into account any residual value of the expenditure for plant and equipment that has not been yet compensated and is subject to the original constraint.
3. The IO or the owner of the good, even in the absence of specific legal/contractual provisions, is in any case obliged to make available to the CC the goods purchased entirely through public financing, as this condition is considered to be an "implicit" restriction on use for the entire useful life of the good.
4. If the existing PSC, legal provisions or financing agreement include a provision that allows the IO to keep the financed goods, in case they are not transferred to the CC, the IO shall return any funding received for

the unamortized contributions, for the part that is attributable to the residual years of useful life, as calculated in proportion to the length of the inalienability constraint.

5. In the RoA the AE specifies the arrangements for the transfer of these goods, which are a binding condition for takeover by the CC.
6. The AE specifies in the PSC the assets that are subject to public financing, identifying the length of the restriction on use, the financing methods, including any component of the compensation intended for asset financing, the methods for depreciation and reporting in the financial statement by the CC, as well as the required maintenance standards and related control systems by the AE on the maintenance of the assets concerned.

Measure 7 - Provision of essential and necessary goods

1. The AE shall ensure access of the CC to essential goods, i.e. networks, facilities and infrastructures that are identified as instrumental to the service performance and are in the availability of the AE itself, an instrumentality thereof or a third party, by means of loan agreements, leasing or other form of legally binding agreement, depending on the legal nature and ownership of the goods concerned.
2. In accordance with pre-established procedures, the AE shall provide the CC with the instrumental goods for the performance of the LPT service that are qualified as essential or necessary and are owned either directly or through an instrumentality.
3. With regard to the scope of these measures, the procedures for access to railway infrastructures and service facilities are governed by the provisions of Implementing Regulation (EU) 2017/2177 and of legislative decree no. 112 of 15 July 2015 (hereinafter: lgs.d. 112/2015); in this context, the AE concludes a framework agreement with the rail infrastructure manager, concerning the path availability and the rules governing the use of the infrastructures, in accordance with Article 23 of the a.m. Decree; the framework agreement is attached to the dossier of the award procedure.
4. In case of availability of essential or necessary goods owned by the IO, as arising from provision of the law or of the PSC, or in case of restrictions on use of the goods, or based on a negotiated agreement, these goods shall be made available by the IO to the CC in accordance with the following procedures:
 - a) lease or transfer of ownership, or other form of legally binding agreement, with obligation for the CC to maintain and take over the assets;
 - b) access to goods and related services; in the case of service facilities governed by lgs.d. 112/2015, the provisions under existing legislation and ART's Decision no. 130/2019 of 1 October 2019 shall apply. In the absence of constraints on the provision of goods, the choice of the procedures referred to under a) and b) is left to the owner of the good.
5. For essential and necessary goods owned by third-parties, that are already covered by a contract with the IO and whose availability has been verified, the takeover by the CC is guaranteed throughout the term of the new contract, in accordance with the same procedures set out under 4.
6. Any provision and/or transfer to the CC of databases and of the related user licenses, shall take into account the existing commercially sensitive information of the IO, or of other previous owner, and shall take place in compliance with the legislation on the protection of commercial and industrial confidentiality.
7. The AE lays down in the RoA the procedures adopted to make available the goods referred to in this Measure, specifying the maintenance obligations (ordinary, extraordinary, cyclical, including any certifications of the goods concerned) and the reporting obligations by the CC, that are in line with the actual needs to perform the services and with reference to the legal title used.
8. The AE specifies in the PSC the aforesaid maintenance and reporting obligations imposed on the CC, as well as the intended use and any constraints, at the end of the awarding period, pertaining to all the goods made available to the CC in accordance with this Measure, including those which may have been acquired during the term of the contract.

Measure 8 - Actions by the AE to promote the availability of instrumental goods

1. Without prejudice to public finance needs, in compliance with EU legislation on State aid and with Article 5a (2) of Regulation (EC) No 1370/2007, and depending on the characteristics of the award procedure, the AE takes one or more of the following actions, by committing, where appropriate, towards the CC:
 - a) to acquire, including through its instrumentalities, rolling stock and immovable and movable property that are necessary for the performance of the service, so as to make them available to the CC;
 - b) to provide a guarantee for financing the procurement by the CC of rolling stock and of movable and immovable property for the performance of the service or for the residual value thereof;
 - c) to adopt additional financial measures to mitigate charges and risks related to the investments required from the awarded entity, in compliance with the PSC and the associated risk allocation;
 - d) to promote coordination and cooperation with other competent entities/authorities and/or private entities, in order to facilitate the availability of instrumental goods.
2. Where during the term of the contract it is planned to carry out the construction of infrastructure works aimed at supplying the instrumental immovable property for the performance of the service with logistical, technical and commercial characteristics that are necessary for the awarded services and have sustainable costs, the AE, by involving the local authorities concerned, shall take appropriate measures to provide the CC with suitable facilities or equipped areas, that are not subject to planning restrictions.

Measure 9 - Criteria for determination of takeover value of essential and necessary goods

1. The takeover value of the goods owned by the IO, or by any third party, to be transferred to the CC shall be identified on the basis of the market value, in accordance with the criteria laid down in this Measure.
2. The market value of immovable property, facilities or other equivalent asset shall be determined by the owner through sworn expert estimates that determine the price within the maximum and minimum values published by the Revenue Agency. The estimates shall take into account the market value of the asset as it is, as well as the net book value and the reconstruction or buy-back value of the asset or of a similar asset, if it cannot be duplicated. In the case of instrumental goods that are used exclusively for the performance of the rail service, instead of expert estimates, the market value is determined by reference to a range of values between: (i) the market values for similar goods, (ii) the reconstruction value of the good reduced by age. If it is applicable to the case at issue, account is taken of the available equipment of the specific facilities that cannot be separated from the building, carrying out a separate assessment thereof.
3. The takeover value of rolling stock for road transport shall be determined by the AE based on the data provided by the owner, by reference to the higher of the residual value or net book value (hereinafter: NBV), that result from the application of national or international accounting standards adopted by the company and certified by an auditor or audit firm, and the market value (hereinafter: MV), within a maximum deviation of 5% in case of NBV > MV. The NBV includes all increases or decreases relating to the revamping of the rolling stock after the acquisition or availability of the asset, which is carried out during the term of contract and is borne by the owner, net of depreciation.
4. The MV shall be calculated by taking into account the following parameters:
 - a) initial value of reference, corresponding to the replacement value;
 - b) residual maturity;
 - c) conditions of use;
 - d) state of conservation;
 - e) performance capacity;
 - f) indicators concerning reliability and availability;
 - g) any increases or decreases relating to ensuing revamping works, net of depreciation.
5. In order to determine the replacement value, the acquisition value, as revalued on the basis of the producer price index for ISTAT² category “means of transport”, is assumed as a reference. Revaluation is excluded if

² ISTAT: Italian National Institute of Statistics (TN).

the compensation for the service provided for in the PSC includes one or more items that are explicitly intended for depreciation of individual assets and for coverage of financial charges and risks relating to the investments in rolling stock.

6. In order to determine, according to objective criteria, the parameters from (b) to (f) referred to in paragraph 4, reference is made to standard UNI 11282/2008 as amended or supplemented. The residual value thus calculated is referred to homogeneous subsets of the fleet. The resulting assessment shall be certified by a professional chosen from among those included in the list of experts of the competent court (Register of Court-appointed experts), depending on where the AE is based.
7. The takeover value of the rolling stock for rail, underground and tramway services shall be determined by the AE based on the data made available by the owner by reference to the NBV, as calculated in accordance with national or international accounting standards adopted by the company and certified by an auditor or audit firm. The NBV includes all increases or decreases relating to ensuing revamping works or to the availability of the asset, as carried out during the term of contract and with charges borne by the owner, net of depreciation.
8. The value of technological systems shall be determined by the AE based on the data made available by the owner, by reference to the higher of the NBV, that result from the application of national or international accounting standards adopted by the company and certified by an auditor or audit firm, and the MV. The MV shall be calculated on the basis of the acquisition cost entered into the accounts, as revalued on the basis of the producer price index for ISTAT category “means of transport” and by applying a linear depreciation coefficient that is calculated on the basis of a maximum five-year period. A residual value of the asset is guaranteed, as determined at the end of the depreciation period on the basis of a pre-determined fixed percentage of the asset cost of acquisition. Revaluation is excluded if the compensation for the service provided for in the PSC includes one or more items that are explicitly intended for depreciation of individual assets and for coverage of financial charges and risks relating to the investments in the aforesaid assets.
9. In the event of a post-award dispute between the parties regarding the sale price, pending the dispute settlement, the assets are temporarily made available to the CC upon payment of a consideration that is equal to the estimated value in accordance with the criteria laid down. Upon dispute settlement, the sale price shall be determined on the basis of the decision by the judicial authority and, where necessary, compensated.
10. In the RoA the AE shall specify the takeover value of any identified asset, as well as the procedures to update/review the assessment depending on the effective date of commencement of the award and signing of the PSC.

Measure 10 - Criteria for determination of leasing fees

1. Where it is provided for the allocation of leased assets to the CC, the dossier of the award procedure shall specify fees, terms of lease, including the ordinary maintenance requirements, and other asset-related contractual clauses.
2. The annual leasing fee is calculated by reference to the MV as determined under Measure 9 above for each type of asset. In any case, it shall ensure recovery of depreciation costs, including recapitalization for any extraordinary maintenance, financial costs, provisions for cyclical maintenance and a reasonable profit margin that is equal to the WACC published by the Authority. Any public contributions that are not yet used as they are related to the applicable depreciation plan shall be deducted from the asset value, as determined in accordance with this paragraph.
11. In the RoA, the EA shall specify the leasing fee of any identified asset, as well as the procedures to update/review the fee depending on the effective date of commencement of the award and signing of the PSC.

Chapter II — Regulatory measures aimed at transparency, effectiveness and efficiency of award procedures

Measure 11 — Regulatory accounting and accounting separation requirements for local public rail passenger transport

1. The CC shall adopt the regulatory accounting formats referred to in Decision No 120/2018, in compliance with the effective date of application provided for therein.

Measure 12 — Regulatory accounting and accounting separation requirements for PSC for local public road passenger transport

1. The CC shall adopt the regulatory accounting formats (income statements, balance sheets and technical data) referred to in Annex 3, and shall allocate, on the basis of the criteria set out below, the income statement and balance sheet items, in line with the annual financial statements, to each PSC that has been concluded. The holders of PSC whose average annual contractual value is less than € 1 million shall adopt the simplified schemes referred to in Annex 3.
2. The regulatory accounting formats concerning each PSC and each mode of transport, where the LPT company holds several PSCs or operates several activities, shall be supplied separately from:
 - a) other PSCs for the same or for other mode of passenger transport;
 - b) other services of general economic interest (SGEI);
 - c) other non-ancillary commercial activities.
3. For regulatory accounting purposes, the income statement and balance sheet items relating to the management of services pertaining to each PSC may be:
 - a) of direct and exclusive relevance of the cost centre represented by the PSC;
 - b) attributable only in part to a specific PSC; in this case, they must be allocated on the basis of specific drivers.
4. The regulatory accounting formats shall differentiate, for balance sheet accounts, the balance sheet items, assets and liabilities, (i) for each PSC concerning LPT by road and (ii) for all the activities operated by the LPT company.
5. The LPT company shall provide for direct and exclusive allocation of income statement and balance sheet items which are objectively and exclusively related to a specified mode of transport included in a specific PSC.
6. For the income statement and balance sheet items that are related to a variety of transport modes included in a specific PSC, the allocation to each of them is carried out in an objective and analytical manner, on the basis of drivers chosen for their being suitable to measure the consumption of resources or the allocation of assets, by applying principles of causality and relevance based on FDC (Fully Distributed Costing) methodology. The drivers used shall be described in any detail, both methodological and quantitative, in the explanatory report referred to in paragraph 9 below.
7. The income statement items and balance sheet items that are attributable to the set of activities included in the PSC of the LPT company are allocated to the various transport modes included in a specific PSC in proportion to what has been previously allocated directly and pro-quota.
8. As a rule, each PSC may be assigned exclusively those income statement and balance sheet items which, in the light of the relevance criterion, are attributable to the ordinary production process.
9. Every year the CC shall forward to the Authority the regulatory accounting formats for the previous year, as referred to in Annex 3, within 60 days of approval of the financial statements, by using the formats made available on the Authority's institutional website; the formats shall be accompanied by an explanatory report of content, methodology and choice of allocation.
10. The regulatory accounting formats and the explanatory report shall be accompanied by a certification, that is drawn up by an audit firm, attesting their compliance with the criteria laid down in this Measure, as well as with the internal procedure and related chart of accounts adopted by the CC to comply therewith. In

case of adoption of the simplified regulatory accounting formats, referred to under 1, the aforementioned certification may be drawn up by the board of statutory auditors or by the legal representative of the CC.

Measure 13 — Criteria for risk identification and allocation in the contract award

1. For the purpose of drawing up the simulated EFP, the AE shall identify and assess the risks associated with the performance of the awarded service, by identifying the type of award at the end of this process.
2. In the case of a concession, on the basis of the matrix model under Annex 4, the AE shall define and allocate the risks to each contractual party (AE and CC) and shall identify any additional risks supplementing the matrix.
3. In the PSC, the AE may decide to provide for the revenue collection by the CC (net cost contracts) or to retain the revenues (gross cost contracts), with particular reference to the services where the fare integration is provided among different operators and which are divided in several lots under the responsibility of the same AE.
4. Concerning the nature and level of the different risks identified, and their allocation to each contracting party, the AE shall specify in the dossier of the award procedure and describing the risk matrix, any mitigation measures of the allocated risks.
5. At the end of each regulatory period, the AE shall assess, in agreement with the CC, whether the risks allocated to the contracting parties are adequate and whether the mitigation measures should be reviewed.
6. The risk matrix drawn up by the AE is an integral part of the dossier of the award procedure and of the related PSC. The matrix provides the references to the PSC that regulates the contractual obligations associated with the risks identified.

Measure 14 —Drafting of simulated EFP for awards by tendering procedure

1. In accordance with the provisions of Article 4(1)(a) of Regulation (EC) No 1370/2007 and Articles 17 and 19 of legislative decree no. 422 of 19 November 1997 (hereinafter: lgs.d. 422/1997), the AE shall draw up, for each awarding lot, a simulated EFP, broken down for all the years of the contract period, in accordance with the formats referred to under nos 1 to 3 of Annex 5 and the related methodological indications in Annex 5.
2. The simulated EFP is aimed at determining the tender price, testing the economic and financial equilibrium of the PSC throughout the contract period and allowing for comparison of the tenders submitted by each TP. The EFP is drawn up by taking as a reference the standard cost referred to in Ministerial Decree no. 157 of 28 March 2018 (hereinafter: m.d. 157/2018) with any additions that take into account the specific service rendered and the objectives of local authorities in terms of service planning and promotion of the efficiency of the sector. For rail transport, concerning the promotion of the efficiency of the sector, account is taken of the parameters of operating efficiency referred to in ART's Decision no. 120/2018.
3. In the RoA the AE shall describe the methods and criteria used to define the simulated EFP. In the dossier of the award procedure the AE indicates only the PSC compensation³ resulting from the EFP.

Measure 15 — Drafting of simulated EFP for direct awards

1. In compliance with the provisions laid down in Article 4(1) (a) and (b) and in the Annex to Regulation (EC) No 1370/2007, as well as in Articles 17 and 19 of lgs.d. 422/1997, the AE shall draw up a simulated EFP, broken down for all the years of the contract period, in accordance with the formats referred to in nos 1-3 and the related methodological indications in Annex 5.
2. The simulated EFP is aimed at determining the PSC compensation to be awarded and testing the economic and financial equilibrium of the PSC throughout the contract period. The EFP is drawn up by taking as a reference the standard cost referred to in m.d. 157 of 28 March 2018 with any additions that take into account the specific service rendered and the objectives of local authorities in terms of service planning

³ Public service compensation (PSC compensation) includes any benefit, particularly financial, granted directly or indirectly by a competent authority from public funds during the period of implementation of a public service obligation or in connection with that period.(TN)

and promotion of the efficiency of the sector. For rail transport, concerning the promotion of the efficiency of the sector, account is taken of the parameters of operating efficiency referred to in ART's Decision no. 120/2018.

3. In the context of the simulated EFP, the AE shall specify the targets to be pursued by the CC, in order to gradually improve the effectiveness of the service and the efficiency of the management throughout the contract period.
4. In the RoA the AE shall describe the methods and criteria used to define the simulated EFP.
5. The simulated EFP drawn up by the AE is attached to the PSC and forms an integral and substantial part thereof.

Measure 16 — Determination of effectiveness and efficiency targets

1. For local public passenger transport services, the AE shall specify in the dossier of the award procedure the targets to be pursued by the CC throughout the contract period. These targets are defined for each regulatory period so as to measure the performance falling under the CC's liability, in respect of at least the following:
 - a) effectiveness-profitability, with reference to the number of passengers carried and the load factor, and the increase in profitability which can be achieved through countering fare fraud and through other commercial policies of the CC;
 - b) efficiency, with reference to the reduction of the operating cost of the service resulting from the increased productivity of the different inputs. The system of cost efficiency is applied in the EFP. For rail services this system is related to the percentage value concerning the recovery of efficiency of the operating cost pursuant to ART's Decision no. 120/2018;
 - c) effectiveness-quality, in terms of improving the levels corresponding to the minimum quality standards laid down by the Authority pursuant to Article 37 (2) (d) of Legislative Decree No 201/2011. For rail services, reference is made to ART's Decision no. 16/2018, without prejudice to the possibility for the AE to extend its application also to road services.
2. In case of award of public transport services by road, the contractual objectives are measured by means of qualitative and quantitative indicators, as regulated by the AE in the PSC, corresponding to at least the minimum set in Annex 7. For direct awards to any public service operator, included internal operators, the targets of these indicators are identified within the simulated EFP.
3. In case of award of rail services referred to in these regulatory measures, the indicators measuring the contractual objectives shall at least correspond to the KPIs as defined by the Authority under ART's Decision no. 120/2018.
4. Failure to achieve the aforementioned objectives constitutes a contractual breach; in this respect the AE defines the relevant applicable penalties in the PSC. The AE also defines in the PSC an appropriate premium system to be applied in case of achievement of higher performance levels than those set by the aforementioned objectives.

Measure 17 — Determination of reasonable profit margin

1. In order to draw up the simulated EFP, as referred to under Measures 14 and 15, the AE provides for granting the CC, for the provision of the PSO service during the award period, a reasonable profit margin that is equal to the rate of return on net invested capital (NIC) as defined by the Authority. This value is published on the Authority's website every year and is regularly updated.
2. The NIC rate of return, that is differentiated for rail and road transport, is determined by the Authority by applying the Weighted Average Cost of Capital method (WACC), according to the following formula:

$$R = g \cdot \frac{R_d \cdot (1 - t)}{1 - T} + (1 - g) \cdot \frac{R_e}{1 - T}$$

where:

g (*gearing*) % of financial debt;
 R_d allowed cost of debt;

t IRES tax rate (*tax shield*);
 T income tax rate (IRES + IRAP);
 $(1-g)$ % of equity;
 R_e nominal rate of return on equity.

3. At the end of the regulatory period and upon contractual review with ensuing update of the EFP attached to the PSC, the reasonable profit margin is updated by applying:
- a) the value published by the Authority at the time of the update or review, for the PSCs that are awarded directly to any public service operator, included internal operators;
 - b) the lower reasonable profit margin of the value published by the Authority and that provided for in the contract, for the PSCs that are awarded by tendering procedure.

Title II – STAGES OF SERVICE AWARD

Chapter I - Regulatory measures to identify the information to be provided in the award procedures

Measure 18 – Provision of minimum information to participants in the award procedures

1. The AE shall provide, at the different stages of the award procedure, the minimum set of information, referred to in Annex 6.
2. In the pre-information stage, the AE shall publish at least the information listed in Annex 6, Table 1.
3. The AE ensures the protection of the commercial and industrial confidentiality of the information referred to in this Measure, in compliance with the provisions of the "Data access plan".

Chapter II - Regulatory measures for equitable and non-discriminatory tender participation

Measure 19 - Participation requirements

1. The AE shall lay down in the tender dossier the terms for participation of the undertakings concerned.
2. Among the financial capacity requirements, in accordance with Article 48 (7) (b) of Decree Law No 50/2017, the AE sets out the obligation for each TP to hold a net worth of at least 15% of the annual amount that is established as tender price.
3. Where the AE lays down further requirements for tender participation in addition to those required under the legislation in force, in order to ensure maximum participation in the tendering procedures by the operators concerned, such requirements shall be laid down, in particular, in accordance with the following general principles:
 - (a) relevance and proportionality with respect to the service to be awarded;
 - (b) non-discrimination, by ensuring equal treatment where a substantial level playing field is in place, in order to protect all potential TPs.
4. The AE shall appropriately quantify and harmonise the tender requirements, especially those concerning economic and financial capacity and technical and operational suitability, so as to:
 - a) avoid oversizing of the technical and economic parameters of reference, that would lead to substantial barriers to the participation of potentially interested parties;
 - b) reconcile the specific requirements imposed on the undertakings concerned with the subjective characteristics of tenderers (single or multiple operators), without prejudice to the prohibition to discriminate against an economic operator located in a specified territory.
5. With reference to the necessary administrative instruments for the performance of the service, such as security licenses and certificates, and in accordance with the general principles of non-discrimination, equal treatment and freedom of establishment, the AE provides for the following in the tender dossier:
 - a) commitment by the TPs, in the bidding stage, to obtain all the a.m. administrative instruments in time for the signing of the PSC and, in any case, before the operation of the awarded service is started;
 - b) provision to the TPs of all the information and documents that are needed to obtain such administrative instruments, in the tender stages (i.e. data room) and at the time of the final award;
 - c) holding by the CC of the a.m. administrative instruments in time for the signing of the PSC and, in any case, before the operation of the awarded service is started.
6. In the context of the RoA, the AE specifies the reasons for the introduction of any additional participation requirement and shall prove that such additional requirements are reasonable and proportionate to the tender characteristics, and that no discrimination is in place to the detriment of potential TPs.

Measure 20 – Awarding criteria

1. In order to award the contract to the most economically advantageous tender, the AE shall set out in the tender dossier:
 - a) the awarding criteria, that are linked to the identified objectives of effectiveness and efficiency, by differentiating technical and qualitative parameters from exclusively economic parameters;
 - b) the ways these criteria are assessed and the relevant weighting and scoring systems.
2. The AE shall lay down the awarding criteria in compliance with the general transparency principles of the award procedure, proportionality and cost-effectiveness in respect to the services to be awarded, equal treatment and non-discrimination to the benefit of all potentially operators concerned, environmental protection and energy efficiency, so as to ensure:
 - a) that the stage of assessment of the technical offer is clearly separated from that of the evaluation of the economic offer of each PG and that the scope of assessment of the technical offer is not affected by exclusively economic parameters;
 - b) that the criteria are relevant to nature, scope and characteristics of the service to be awarded, also with regard to the rolling stock provided for by the tender procedure.
3. The AE lays down in the tender dossier the procedures for assessment of the individual criteria (and any sub-criteria) on the basis of adequate reasons by establishing, where possible, algorithms for calculating the scores that will be adopted by the tender evaluation committee, referred to in the following Measure 24.
4. The AE verifies that the conduct of the tender evaluation committee complies with the procedures and evaluation criteria as previously identified.

Measure 21 - Transfer of personnel

1. The AE shall provide in the tender dossier for *ad hoc* rules concerning the social clause, to protect the IO's personnel employed for the performance of the service to be awarded, in compliance with the general rules adopted by the Authority pursuant to art. 48 (7) of lgs. d. 50/2017, as specified below.
2. The AE shall lay down rules on the social clause by taking into account whether the services to be awarded are comparable to those of the existing PSC. If the volume of the services to be awarded is lower than that covered by the existing PSC, these rules shall take into account the actual staffing requirements required by the new service. Where the award takes place after the service covered by the existing PSC has been divided into lots, the general rules under this Measure shall apply to the transfer of personnel from the IO to each contracting company that has been awarded a lot, by taking into account the criterion for allocating the service into lots.
3. In the tender dossier the AE provides for the obligation that the personnel already employed by the IO is taken over seamlessly in the workforce of the CC. For this purpose:
 - a) the AE shall identify the personnel to be transferred after consultation with the IO and with the territorially competent trade union organizations that are signatories to the national collective agreement for the sector concerned, to be carried out, if it is deemed appropriate, in the framework of the procedure referred to under paragraph 5 of Measure 4;
 - b) in the light of the outcome of the consultation, the IO shall forward to the AE the list of its non-managerial staff to be transferred to the CC, including the information referred to in Annex 6, Table 3, "Transfer of personnel"; this list is prepared by the IO by ensuring that the staff identified is consistent with the regulatory accounting schemes of the last available year and it is annexed to the tender dossier.
4. Each TP expressly agrees in the bidding stage on the social clause as defined by the AE in the relevant dossier; the non-acceptance of the clause is a ground for exclusion of the bid from the tender procedure; the mere acceptance of the obligations concerning the takeover of personnel cannot become a criterion of assessment of the technical bid.
5. The rules concerning the social clause are included in the PSC signed with the CC, that also specifies the rights and obligations relating to the personnel transferred by the IO; for this purpose, the tender dossier and the PSC shall provide for the following:

- a) that the failure to comply with the obligations set out in the social clause in the execution of the contract is a ground for termination of the contract;
- b) appropriate and adequate penalties and termination clauses.

Measure 22 - Economic-Financial Plan of tender participants in the award of concessions

1. In the tender dossier the AE shall lay down rules for the drafting by each TP of an EFP, that includes projections of costs and revenues, investments and cash flows, for the contract period, according to the formats under 1-4 and the related methodological indications in Annex 5, taking into account the risk allocation referred to in Annex 4.
2. Each TP shall draw up, for each awarding lot, an EFP in accordance with the requirements provided for by the AE, that ensures the strict confidentiality thereof.
3. Where the tender requires the submission of an investment plan, the AE shall include in the EFP schemes appropriate indices to assess the financial sustainability of the proposal, such as, but not limited to, DSCR and LLCR by providing for the methods of their determination in order to guarantee their univocal calculation.
4. The tender EFP shall be accompanied by an explanatory report of the schemes, including, in particular, a description of supply and demand input data, of the assumptions underlying the bid and the method of calculation of the values.
5. In the case of multi-modal award, for the purpose of the reporting arrangements laid down in the PSC, a scheme shall be drawn up for each mode of the transport service to be awarded.
6. In the case of procedures involving investments in (movable and immovable) instrumental goods for the performance of the service by the CC, the tender EFP for awards with a total tender price exceeding EUR 10 million shall be certified by a credit institution or a service company set up by the credit institution and entered in the register of financial intermediaries pursuant to Article 106 of legislative decree no. 385 of 1 September 1993, or by an auditing firm pursuant to Article 1 of Law no. 1966 of 23 November 1939, or by statutory auditors, pursuant to legislative decree no. 39 of 27 January 2010.
7. The tender EFP of the CC is an integral and substantial part of the PSC and is subject to update/revision at the end of each regulatory period.

Measure 23 - Deadline for tender submission

1. In order to ensure maximum participation of operators, the time limit for the submission of tenders, without prejudice to paragraph 2 below, may not be less than 110 days from the date of publication of the tender notice or of transmission of the invitation, and shall be determined in the light of the complexity of the services to be awarded and of the evaluation of the investments.
2. The AE may provide for a shorter deadline within the limits laid down by law, on account of the specific features and/or degree of complexity of the award procedure or of the service concerned, by appropriately specifying the reasons for its choice in the tender dossier.

Measure 24 - Criteria for appointment of the tender evaluation committee

1. The AE delegates the technical and economic evaluation of the bids to an *ad hoc* designated tender committee.
2. The procedure for appointing the tender committee is carried out in compliance with the provisions of Article 77 of legislative decree no. 50 of 18 April 2016 (hereinafter: lgs. d. 50/2016) and is aimed at screening persons with adequate professional skills and competence, including with regard to the assessment of the tender EFP, as well as with particular experience in the planning of transport networks and in the scheduling, management and monitoring of LPT services.
3. Following the appointment of the tender committee, the AE shall publish in the relevant dedicated section of its website the résumés attesting the competence and professional skills of the members of the committee.

4. At least in the first three years following the date of signing of the PSC, the CC may not entrust the members of the tender committee with any tasks or functions.
5. The AE shall ensure the effective application of this Measure by providing for appropriate deterrents and penalties, in particular with respect to the provisions of Article 42 of lgs. d. 50/2016 concerning conflicts of interest and with respect to the CC that infringes the provisions under paragraph 4 above, as regulated in the PSC.
6. The provisions of this Measure shall also apply where the AE avails itself of another contracting authority pursuant to Article 27 (12) (c) of lgs. d. 50/2017; in this case, the provisions contained in this Measure, which include the obligations assigned to the AE as the contracting authority, shall be understood as referred to the entity through which the AE awards the service.

Title III – STAGE OF IMPLEMENTATION OF THE PSC

Measure 25 - Monitoring and reporting of the service

1. The AE shall establish in the PSC an adequate monitoring of the service with reference to the economic, technical, management and qualitative performance under the contract, by specifying in the PSC the responsibilities, procedures, instruments and timing for collection, reporting and transmission of data, information and useful documents.
2. For this purpose, the AE shall lay down in the contract, for each group of services:
 - a) the type of data, information and documents (reports/final statements) that the CC shall provide to the AE in relation to the indicators under the PSC, and the associated penalties in case of non-compliance;
 - b) the procedures for the performance of the verification activities within its remit, including pursuant to art. 2 (461) of Law no. 244 of 24 December 2007 (hereinafter: law 244/2007);
 - c) any obligations of the CC concerning the performance of regular surveys on the expected and perceived quality of the service (Customer Satisfaction Surveys), by ensuring the involvement of users and consumer associations in the adjustment of the supply and assessment of service quality, in accordance with the provisions of the Quality Customer Charter.
3. The AE regulates the contents referred to under 2, including in order to ensure that the CC forwards in due time the information within its remit referred to in Annex 6, that is preparatory to the launch of a new award procedure. The AE defines in the PSC the applicable penalties in case of non-compliance by the CC.
4. The data, information and documents shall be made available by the CC to the AE in editable electronic format, unless otherwise provided for in the PSC.
5. The data, information and documents are held by the AE; in order to ensure maximum transparency in the contract management, they are published on the AE's website, with particular reference to:
 - a) existing PSCs;
 - b) existing Quality Customer Charters;
 - c) outcome of Customer Satisfaction Surveys;
 - d) main economic, technical, management and qualitative indicators under the PSC.
6. As part of the consultation procedure referred to under 5 of Measure 4, the AE lays down the "Data access plan", specifying the procedures to access the data, information and documents by third parties; as for economic data concerning, in particular, individual basic cost items, the AE shall assess whether they may be disclosed in relation to the protection of commercial and industrial confidentiality of the information.

Measure 26 - Testing economic and financial equilibrium

1. The AE shall lay down rules in the PSC concerning the procedures to test the objectives referred to in Measure 16 and the corresponding financial and economic equilibrium, by splitting the contractual term into regulatory periods.
2. For this purpose the AE shall define in the PSC timing and procedures for the preparation of an updated EFP by the CC at the end of each regulatory period (final EFP), including the items of costs and revenues in accordance with the formats in Annex 5, that allows the comparison with the previous EFP (prior EFP), accounting, in particular, for the investments actually realised and quantifying any over-compensation or under-compensation, by highlighting the impact of any external factors to the PSC.
3. This Measure shall apply to all services that are awarded through a concession. In order to pursue management efficiency, the AEs shall in any case take into account the objectives of economic and financial equilibrium, in terms of cost coverage and reasonable profit margin, through revenue from passenger services and PSC compensation.

Measure 27 – Criteria for fare updating

1. Fares of LPT services are updated by the competent authorities taking into account the need to ensure the economic equilibrium of the CC and/or of other operators concerned, and to contain costs for users, businesses and consumers; this update is based on the application of the price-cap method, in compliance

with the effectiveness and efficiency targets referred to in ART's Decision no. 120/2018, as for rail services, and to Measure 16 of this regulatory act, as for road services, and is determined according to the following formula:

$$[F_t \leq F_{t-1} * [1 + I_{t-1} + (Q_t - Q_{t-1})]]$$

where:

t: period of reference;

I: inflation rate (ISTAT/FOI⁴ or any other index under regional regulations) for the relevant period;

F_t: average fare referred to the basket of the existing tickets, as weighted on: (i) number of travel tickets sold for each type and (ii) coefficient of use of each type of ticket concerned;

Q: indicator of actual quality of the public transport service, as determined according to the procedures referred to in paragraph 2 below;

2. Q value is calculated for the period of reference as weighted annual average, on the basis of the volume of service concerned (train-km/year or vehicle-km/year), of a set of indicators of delivered and perceived quality as collected in each year by the competent authority; the authority establishes these indicators in agreement with each AE involved in the application of the fare F_t, with reference to:
 - a) the quality parameters provided for by the service monitoring system, referred to in Measure 25;
 - b) the minimum quality standards established for railway services pursuant to ART's Decision no. 16/2018. Where the AE is also in charge of setting the fares, the coefficient is defined in relation to the performance achieved by the CC.
3. The application of the price-cap method should not affect the adoption of integrated ticketing or integrated services and the variation in prices or fares may be allowed only up to a fixed upper limit (maximum percentage increase) by the competent entity.

Measure 28 – Contract review and renegotiation

1. The terms of contract review are specified by the AE in the PSC, on the basis of the outcome of the monitoring of the performance of the PSC, which shall take place on a regular basis and, in any case, at the end of each regulatory period, at least with reference to the following:
 - a) % deviation of net result estimated in the EFP from final net result above a specified threshold;
 - b) permanent modification of the schedule of operations above a specified % threshold of the planned journeys as estimated upon the signing of the PSC;
 - c) adequacy of qualitative performance of the service provided to the users' needs, pursuant to article 2 (461) of law 244/2007.
2. Quantitative adjustments (schedule of operations) or qualitative changes (performance) that do not have a significant impact on the EFP, while complying with the thresholds of reference provided for in the PSC under the previous paragraph, shall not be considered as grounds for contract review.
3. Without prejudice to the previous paragraphs, the occurrence of unforeseen or unforeseeable events upon the signing of the PSC may only involve the adoption of non-substantial contract amendments.
4. The AE shall regulate in the PSC the terms and modes for users' involvement in case of a modification of the schedule of operations, by at least ensuring that the information to users is supplied without delay and through any appropriate communication channel of the CC.

⁴ FOI: Italian statistical index for families, workers and employees (TN).