

Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast) (Text with EEA relevance)

CHAPTER III

ACCESS TO ROUTES

*Article 17*

**Public tender procedure for public service obligation**

1 The public tender required in Article 16(10) shall be conducted according to the procedure set out in paragraphs 2 to 10 of this Article.

2 The Member State concerned shall communicate the entire text of the invitation to tender to the Commission except where, in accordance with Article 16(5), it has made the public service obligation known through the publication of a notice in its national official journal. In such case the tender shall also be published in the national official journal.

3 The invitation to tender and the subsequent contract shall cover, inter alia, the following points:

- a the standards required by the public service obligation;
- b rules concerning amendment and termination of the contract, in particular to take account of unforeseeable changes;
- c the period of validity of the contract;
- d penalties in the event of failure to comply with the contract;
- e objective and transparent parameters on the basis of which compensation, if any, for the discharging of the public service obligations shall be calculated.

4 The Commission shall make the invitation to tender known through an information notice published in the *Official Journal of the European Union*. The deadline for submission of tenders shall not be earlier than two months after the day of publication of such an information notice. In case the tender concerns a route to which the access had already been limited to one carrier in accordance with Article 16(9), the invitation to tender will be published at least six months before the start of the new concession in order to assess the continued necessity of the restricted access.

5 The information notice shall provide the following information:

- a Member State(s) concerned;
- b air route concerned;
- c period of validity of the contract;
- d complete address where the text of the invitation to tender and any relevant information and/or documentation related to the public tender and the public service obligation shall be made available by the Member State concerned;
- e deadline for submission of tenders.

6 The Member State(s) concerned shall communicate without delay and free of charge any relevant information and documents requested by a party interested in the public tender.

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**Changes to legislation:** There are outstanding changes not yet made to Regulation (EC) No 1008/2008 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

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7 The selection among the submissions shall be made as soon as possible taking into consideration the adequacy of the service, including the prices and conditions which can be quoted to users, and the cost of the compensation required from the Member State(s) concerned, if any.

8 The Member State concerned may compensate an air carrier, which has been selected under paragraph 7, for adhering to the standards required by a public service obligation imposed under Article 16. Such compensation may not exceed the amount required to cover the net costs incurred in discharging each public service obligation, taking account of revenue relating thereto kept by the air carrier and a reasonable profit.

9 The Commission shall be informed in writing and without delay of the results of the public tender and of the selection by the Member State including the following information:

- a numbers, names and corporate information of tenderers;
- b operational elements contained in the offers;
- c compensation requested in the offers;
- d name of the selected tenderer.

10 At a request of a Member State or on its own initiative, the Commission may request Member States to communicate, within one month, all relevant documents relating to the selection of an air carrier for the operation of a public service obligation. In case the requested documents are not communicated within the deadline, the Commission may decide to suspend the invitation to tender in accordance with the procedure referred to in Article 25(2).

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#### Changes and effects yet to be applied to :

- Regulation revoked by S.I. 2018/1392 reg. 7
- Regulation title amended by S.I. 2018/1392 Sch. 2 para. 2
- Art. 17(2) omitted by S.I. 2018/1392 Sch. 2 para. 18(2)
- Art. 17(4) words omitted by S.I. 2018/1392 Sch. 2 para. 18(3)(b)
- Art. 17(4) words substituted by S.I. 2018/1392 Sch. 2 para. 18(3)(a)
- Art. 17(6) words substituted by S.I. 2018/1392 Sch. 2 para. 18(5)
- Art. 17(7) words omitted by S.I. 2018/1392 Sch. 2 para. 18(6)
- Art. 17(8) words substituted by S.I. 2018/1392 Sch. 2 para. 18(7)
- Art. 17(9)(10) omitted by S.I. 2018/1392 Sch. 2 para. 18(8)

#### Changes and effects yet to be applied to the whole legislation item and associated provisions

- Signature words omitted by S.I. 2018/1392 Sch. 2 para. 22
- Art. 2(2) words substituted by S.I. 2018/1392 Sch. 2 para. 4(2)
- Art. 2(7) words omitted by S.I. 2018/1392 Sch. 2 para. 4(3)
- Art. 2(8) words omitted by S.I. 2018/1392 Sch. 2 para. 4(4)
- Art. 2(11) words substituted by S.I. 2018/1392 Sch. 2 para. 4(5)(a)
- Art. 2(11) words substituted by S.I. 2018/1392 Sch. 2 para. 4(5)(b)
- Art. 2(11A) inserted by S.I. 2018/1392 Sch. 2 para. 4(6)
- Art. 2(13)(14) omitted by S.I. 2018/1392 Sch. 2 para. 4(7)
- Art. 2(18)(19) words omitted by S.I. 2018/1392 Sch. 2 para. 4(8)
- Art. 2(20)-(22) omitted by S.I. 2018/1392 Sch. 2 para. 4(9)
- Art. 2(26) substituted by S.I. 2018/1392 Sch. 2 para. 4(10)
- Art. 4(a) words substituted by S.I. 2018/1392 Sch. 2 para. 6(b)
- Art. 4(b) words substituted by S.I. 2018/1392 Sch. 2 para. 6(c)
- Art. 4(f) omitted by S.I. 2018/1392 Sch. 2 para. 6(d)
- Art. 13(3)(a) words omitted by S.I. 2018/1392 Sch. 2 para. 14(4)(b)(ii)
- Art. 13(3)(a) words substituted by S.I. 2018/1392 Sch. 2 para. 14(4)(b)(i)
- Art. 13(3)(b) words inserted by S.I. 2018/1392 Sch. 2 para. 14(4)(c)(ii)
- Art. 13(3)(b) words substituted by S.I. 2018/1392 Sch. 2 para. 14(4)(c)(i)
- Art. 13(3)(b) words substituted by S.I. 2018/1392, Sch. 2 para. 14(4)(c)(zi) (as inserted) by S.I. 2019/687 reg. 5(4)
- Art. 16(3)(a) words inserted by S.I. 2018/1392 Sch. 2 para. 17(4)(b)
- Art. 16(4)(c) words substituted by S.I. 2018/1392 Sch. 2 para. 17(5)(b)(ii)
- Art. 16(12)(a) words omitted by S.I. 2018/1392 Sch. 2 para. 17(10)(c)
- Art. 16(12)(b) words substituted by S.I. 2018/1392 Sch. 2 para. 17(10)(d)
- Art. 17(5)(a) omitted by S.I. 2018/1392 Sch. 2 para. 18(4)(a)
- Art. 17(5)(d) words omitted by S.I. 2018/1392 Sch. 2 para. 18(4)(b)