

Public Service Contracts in Russia

Does Russian Law Provide Adequate
Support for PSCs?

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Outline

- ☐ Introduction
 - ☐ Background
 - ☐ Main features
 - ☐ Legislative framework
 - ☐ Foreign law
 - ☐ Conclusions
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Introduction

- Current presentation is based on an EBRD sponsored project in Russia to promote Public Service Contracts (PSC) in Russia
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Background information

- ❑ Project seeks to introduce PSC in a medium size town in the Volga Region
 - ❑ Purpose: restructuring urban public transport
 - ❑ Requires action in five domains:
 - Network
 - System of regulation
 - Regulatory body
 - Potential providers
 - Fares, ticketing, and revenues
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Regulatory framework (I)

- Relevant Russian laws include:
 - Transport law – draft still under discussion
 - 2005 Law on concession agreements – scope restricted to infrastructure only
 - Company law – various company laws in place (Civil Code; Laws on joint-stock companies; limited liability companies; state and municipal enterprises)
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Regulatory framework (II)

- 2006 Law on protection of competition
 - forbids restriction of competition in most economic sectors
 - State aid is allowed for providing social services
 - Tenders are subject to supervision by Federal Anti-monopoly Agency
 - 2005 Law on public procurement – provision of public transport subject to tendering
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Regulatory framework (III)

- 2001 Law on privatization – Article 30 forbids privatization of objects of public transport

□ Conclusions:

- Applicable laws do not forbid provision of public transport by private carriers;
 - However, robust support is missing
 - Local regulations are supportive but federal support is needed
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EBRD Model Agreement on Public Transport Services (I)

- ☐ To be concluded by municipality and private sector carrier (winner of tender)
 - ☐ Specifies rights and duties of parties
 - ☐ Rather sophisticated instrument; would require a different mind set with the public authorities
 - ☐ Not supported by a Law on transport
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EBRD Model Agreement on Public Transport Services (II)

- Includes a number of annexes, including:
 - Reference service plan
 - Operations plan
 - Standard vehicle requirements
 - Service quality indicators
 - Customer satisfaction index
 - Tariff plan
 - Incentives and penalties
 - Price indexation formula
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Regulatory framework

□ Shortcomings:

- No robust legislative support in place yet
 - Implementation still rather weak – strengthening of institutional support – f.i. transport departments of municipalities will have to monitor performance of PSCs
 - Enforcement is still weak – f.i. police will have to enforce PSC, including penalizing illegitimate competitors
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2000 Dutch Law on carriage of persons (I)

- The Dutch Law of 2000 on carriage of persons could serve as an example for the new Russian Law on Transport
 - Main features of the Dutch Law:
 - Regional public transport shall be subject to tendering and concessions
 - Urban public transport (buses) may be subject to tendering and concessions
 - Rights and duties of a concession agreement
 - Enforcement, including penalties and criminal sanctions
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Relevant EU Legislation (I)

- ❑ Directive 2004/18/EC of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts
 - ❑ Amended proposal for a Regulation on action by Member States concerning public service requirements and the award of public service contracts in passenger transport by rail, road and inland waterway
– COM (2002) 107 final, 21.2.2002, 2000/0212(COD)
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Relevant EU Legislation (II)

- ❑ Revised proposal for a regulation on public passenger transport services by rail and by road, COM(2005) 319 final, 20.7.2005, 2000/0212 (COD)
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Conclusions

- ❑ Most laws are in place
 - ❑ With one exception only – a robust law on transport, providing for concession based public transport
 - ❑ Dutch law on carriage of persons could serve as a model
 - ❑ Institutional support should be strengthened
 - ❑ Enforcement should be improved
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