

COMMON STATEMENT BY EUROPEAN AND NATIONAL BUSINESS ASSOCIATIONS



The Public procurement legislation should support sustainable growth in Europe, not fragmentation of the Internal Market

On the eve of the first reading of the public procurement package, we, associations representing most of the businesses offering public works and services in significant sectors of the European economy, want to draw the attention of the European Parliament and the Council to the fact that the current discussions on the revision of the 2004 public procurement directives present an opportunity:

- to provide economic actors and public authorities with **legal certainty**,
- to ensure **fair and equal treatment** between operators irrespective of their legal status,
- to facilitate **access to public markets for SMEs**,
- to optimise the **efficient and transparent spending** of taxpayers' money in times of scarce public resources

while contributing to the achievement the EU-2020 objectives.

In order to take advantage of these opportunities, both Members of the European Parliament and Member States must bear in mind that the **scope** of public procurement legislation **has to be as comprehensive as possible**. Exclusions related to either the nature of the activity or of the economic operator would generate unfair treatment between operators, reduce the scope of the Internal Market and thus hamper smart, sustainable and inclusive growth of the EU-economy.

Hence, **public-public /“in-house” relations**, not subject to the transparency and competition rules of public procurement legislation, and thus not subject to the green, social or economic performance criteria that authorities can impose to external operators via procurement rules:

- should **not be allowed to compete in the open market at all**, as they would then benefit from an unfair competitive advantage and would restrict market access in particular for SMEs;
- but should **remain 100% publicly owned**, exclusively performing one specific public task in a defined time frame on the territory of the involved authorities.

This applies to the revision of the public procurement directives as well as to the proposal for a stand-alone directive on concessions. Especially the latter will **have an added value for the EU economy only if the above mentioned criteria are met and if its scope does not unduly exclude whole sectors** of the economy. Should these conditions not be met, we would advocate the withdrawal of the provisions related to public-public relations. In any case, **exceptions** for public-public / “in-house” relations **should not be binding** on Member States. The latter should be free to guarantee open markets and high level of transparency in public spending.

Members of the European Parliament and EU Member States should not base their judgments on a misleading conception of the purpose of public procurement and concessions legislation. It **imposes neither the liberalisation of public tasks nor the privatisation of public assets**. The public procurement rules, as well as the concessions Directive, aim at ensuring fair competition and transparency between external operators but **only if the public authority itself chooses** to outsource the construction and/or the management of infrastructure or of a service.

Against the background of the economic crisis, the revision of the public procurement legislation should not miss the opportunity to make public procurement, which accounts for nearly 20% of EU GDP, more cost-efficient and more performance-driven.

This position is without prejudice to the positions already advocated or that will be further advocated by the signatories; it only reflects their views on the exclusion of public-public activities from the Directives.

THE SIGNATORIES:

AquaFed: *The International Federation of Private Water Operators (representing over 300 water service providers operating in 40 countries out of which 23 EU member states) –* **EFIEES:** *European Federation of Intelligent Energy Efficiency Services (representing private District Heating and Energy Efficiency Services operators employing more than 130 000 employees) –* **E3PO:** *European Public Private Partnership Organisation (representing private companies and over 700.000 employees that are active in the operation of Services of General Economic Interest) –* **EPTO:** *European Passenger Transport Operators (representing the ten major private sector public transport operators with 255,000 employees, transporting 12 bn passengers/year in Europe) –* **FEAD:** *European Federation of Waste Management and Environmental Services (20 national federations, with a combined turnover of about € 75 bn/year and over 320.000 employees) –* **FERCO:** *European Federation of Contract Catering Organisations (representing 9 federations with 600.000 employees) –* **FIEC:** *European Construction Industry Federation (representing all sizes of enterprises from 33 national member federations in 29 countries).*

Almega: *employer and trade organisation for the Swedish service sector (10,000 member companies employing some 500,000 people) –* **BDI:** *Federation of the German Industry (representing 38 sector business associations and 100,000 companies with 8m employees) –* **CBI:** *Confederation of British Industry: (representing over 240,000 businesses of all sectors) –* **CEOE:** *Spanish Confederation of Employers' Organisations (representing 1,200,000 companies employing 12m people –* **Cofindustria:** *main Italian business organisation (representing 149.288 manufacturing and services companies of all sizes employing 5.516.975 workers) –* **EK:** *Confederation of Finnish Industries (representing 16,000 member companies across all business sectors, employing 950,000 people) –* **PKPP** **Lewiatan:** *Polish Confederation of Private Employers (organization of 62 sectors employing over 700,000 people) –* **MEDEF:** *Confederation of French enterprises (representing nearly 800,000 enterprises, whether large, SME or very small, public or private, in the manufacturing, services and retail sectors).* **NHO:** *The Confederation of Norwegian Enterprises (representing over 20,000 companies from small family-owned businesses to multinational companies).*