



### Joint statement from the PSEF

#### IMCO vote on the European Commission's proposal for a new Public Procurement Directive – 18 Dec 2012.

The signatory organisations would like to address some joint concerns in relation to the European Commission's proposal for a new directive on public procurement prior to the vote in the lead Committee on Internal Market and Consumer Protection (IMCO) on 18<sup>th</sup> December.

First of all, we welcome the clarification of the proposal on the scope of the public procurement package, reminding the freedom of the relevant national, regional or local authorities to organise the provision of public services. Tendering is one tool at their disposal that requires, when chosen, adequate and fair rules.

Then, we fully support the aims of the European Commission, to modernise the public procurement rules in order to make them simpler and more effective. We are concerned however that the current discussions will not achieve this objective. Therefore, we wish to highlight that:

- The new directive must lead to a **significant simplification and consolidation of the rules.**
- Avenues for legal challenge should be reduced. Increasing the amount of detail and regulation at EU level has the opposite effect: it encourages an unwelcome litigious culture.



- **Fewer and more flexible procedures** are needed. A greater ability to negotiate in procedures is necessary to achieve the best results with public money. The financial criteria **applied to modifications of ongoing** contracts in order not to consider the modifications as substantial, should not be cumulative but alternative. Without this flexibility the major part of the modifications will induce new tendering.
- Pursuing green, social, innovation and other **policy goals should be encouraged by the EU but must remain voluntary at EU level** in terms of determining award criteria in public contracts. The European Commission's approach to provide contracting authorities with a 'toolbox' to pursue these policy goals based on democratic choices of the requirements for each procurement is the most effective solution.
- Some services require, by their very nature, a lighter tendering regime. This is essential to ensure that the former distinction between A and B services is maintained so that social and other services, including legal services, benefit from an adequate framework including a further simplification of notification regimes. The requirement to use the Official Journal of the EU to advertise ex-ante tenders for these services goes beyond the current regime for Part B services.
- The modernisation of EU public procurement rules should be the occasion to take stock of the evolution of markets following the implementation of EU legislation on liberalisation, as some categories of services are now provided on markets fully opened to competition.

We conclude that the new directive should provide a simplified legal framework which is fit for the purpose of allowing better spending of public money. Therefore, we urge the European Parliament to work towards a procurement directive that does not lead to increased legal and administrative burdens.



Valeria Ronzitti  
General Secretary of CEEP

Libor Lochman  
Executive Director of CER

Frédéric Vallier  
CEMR Secretary General



Hans ten Berge  
Secretary General of EURELECTRIC

Godfrey Perera  
Secretary General of HOSPEEM

Brigitte Ollier  
Director of UITP Euroteam



The Public Services Employers' Forum is an informal forum of European employers' organisations collaborating on matters of joint interest. Signatories of this joint statement are: CEEP, CER, CEMR, EURELECTRIC, HOSPEEM, and UITP.

