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REPORT

on public-private partnerships and Community law on public procurement and concessions
(2006/2043(INI))

Committee on the Internal Market and Consumer Protection

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(*) Enhanced cooperation between committees - Rule 47 of the Rules of Procedure

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CONTENTS

Page

DRAFT EUROPEAN PARLIAMENT RESOLUTION 3

EXPLANATORY STATEMENT 10

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS (*) 16

OPINION OF THE COMMITTEE ON TRANSPORT AND TOURISM 22

OPINION OF THE COMMITTEE ON REGIONAL DEVELOPMENT 27

(*) Enhanced cooperation between committees - Rule 47

DRAFT EUROPEAN PARLIAMENT RESOLUTION

on public-private partnerships and Community law on public procurement and concessions (2006/2043(INI))

The European Parliament,

– having regard to the Commission Green Paper on public-private partnerships and Community law on public contracts and concessions (COM(2004)0327),

– having regard to the Treaty establishing the European Community, particularly Article 5(2) thereof on the principle of subsidiarity and Articles 43 to 49 thereof on freedom of establishment and freedom to provide services, and to the principles derived therefrom of transparency, equal treatment, proportionality and mutual recognition,

– having regard to the directives on public procurement currently in force,

– having regard to the Council of Europe's European Charter of Local Self-Government of 15 October 1985,

– having regard to Article I-5 of the Treaty establishing a Constitution for Europe,

– having regard to Rule 45 of its Rules of Procedure,

– having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinions of the Committee on Economic and Monetary Affairs, the Committee on Transport and Tourism and the Committee on Regional Development (A6-0363/2006),

A. whereas numerous public-private partnerships (PPPs) have been created in many Member States over the past decade,

B. whereas there is as yet no definition applicable throughout Europe, nor are there any specific provisions in current Community law, to cover all the different forms of PPP,

C. whereas a PPP can be described as a long-term, contractually regulated cooperation between public authorities and the private sector to carry out public assignments, in which the requisite resources are placed under joint management and project risks are apportioned appropriately on the basis of the risk management skills of the project partners,

D. whereas PPPs are often legally, financially and commercially complicated structures, bringing together private undertakings and public bodies for the purpose of jointly carrying out and managing infrastructure projects or providing public services,

E. whereas in the main, local and municipal authorities have sought to enter into PPP projects; whereas, however, there is also a need for such projects at European level, not least to implement the trans-European transport networks,

F. whereas PPPs are not a first step towards the privatisation of public tasks,

G. whereas the purpose of PPP contracts is to enable public bodies to benefit from the design, construction and management skills of private enterprises and, if necessary, from their financial skills,

H. whereas cooperation between public authorities and industry can produce synergies and public benefits, enable public funds to be used more efficiently, serve as an alternative to privatisation in times of scarce budgetary funding and help public administrations to modernise by acquiring know-how from the private sector,

I. whereas PPPs come as a matter of principle within the scope of the Treaty's internal market provisions, particularly the principles of transparency, equal treatment, proportionality and mutual recognition, as well as within the provisions of secondary Community law on public procurement,

J. whereas private investors must be provided with guarantees that the terms of a contract will not be altered during its lifetime,

K. whereas any legal regime for PPPs should respect the right of local and regional self-government, in so far as it is enshrined in the Member States' national laws,

L. whereas PPPs represent a possible way of organising the fulfilment of public sector tasks, and whereas the public sector must continue to be able to determine whether it fulfils a task itself or does so through its own undertakings or through third parties from the private sector,

M. whereas citizens' awareness of the impact of PPPs should be increased,

General comments

1. Welcomes the fact that the Commission produced the Green Paper on public-private partnerships and Community law on public contracts and concessions, a report on the public consultation on the Green Paper and, finally, a communication on possible follow-up measures in the field of PPPs (COM(2005)0569);

2. Considers it premature to assess the effects of the public procurement directives and therefore opposes the creation of a separate legal regime for PPPs but considers that there is a need for legislative initiatives in the areas of concessions, respecting the principles of the internal market and threshold values and providing simple rules for tendering procedures, and for clarification with regard to institutionalised public-private partnerships (IPPPs);

3. Calls on the Commission, in regulating future PPPs and in the current impact assessment of the legal provisions on concessions, to give serious consideration to regional self-

government interests and to involve representatives of regional as well as local interests in drawing up future rules;

4. Favours transitional periods for existing contracts that have been concluded in good faith in accordance with national law, in order to avoid legal uncertainty;

5. Rejects every means of circumventing the law on public procurement and concessions;

6. Considers that as a matter of principle the law on public contracts needs to be applied whenever a private partner is to be selected; in the event of a transfer of interests to a private partner in connection with an IPPP, the law on public contracts needs to be applied if the transfer is related in time and substance with the assignment of a public contract;

7. Considers that the outsourcing of the provision of services of general interest requires the contracting authority to award the contract on the basis of public procurement procedures;

8. Is of the opinion that when tasks have been satisfactorily carried out with the assistance of private partners, restoring them to the municipal sphere of responsibility cannot constitute a sound alternative to PPPs which is consistent with competition principles;

9. Considers that municipalities and their subsidiaries should be permitted to be exempted from the competition principles only when they are carrying out their purely local tasks which bear no relation to the internal market;

10. Draws attention to the importance of transparency, respect for which must be evident whenever public funds are involved, and which should entail the right of elected representatives to inspect agreements and documents;

11. Recommends that the Member States create transparent mechanisms guaranteeing that private investors' legal and financial interests are protected during the whole lifetime of a contract;

12. Takes the view that transparent rules on the award of public contracts serve to enhance effective competition and protection from corruption in the interests of citizens;

13. Emphasises that the expression 'conflict of interests' should be defined at EU level in the interests of establishing fair and equitable sharing of risk;

14. Recommends that in the implementation of PPPs, there should be provision for binding requirements to account to citizens, so as to ensure safety, efficiency and quality standards;

15. Recommends that the Member States alleviate the task of the public sector by improving the training of the decision-makers with the task of selecting private partners for PPPs;

16. Expects the Member States to make arrangements to ensure that the consequences for local authority employees are handled sensitively and in good time, and that fair agreements about the transfer of (public or private sector) employees and their employment conditions will be promoted and respected, in line with Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States

relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses[1];

17. Expects the provisions of Directive 2001/23/EC to be complied with by the public authorities in the Member States;

18. Opposes the establishment of a European agency for PPPs, but welcomes other ways of sharing experience concerning best and worst practices, such as the networking of national and regional authorities responsible for the management of PPPs;

19. Encourages the Commission and the European Investment Bank to gather together their expertise and disseminate it, especially in those Member States where the public authorities are not familiar with PPPs;

20. Emphasises that accumulated experience of PPPs helps to prevent the repetition of mistakes and of failed methods;

21. Opposes the creation of any legislation on the award of public procurement contracts beneath the threshold values;

22. Calls on the Commission to ensure, by exercising Community-level control over state aid, that the granting of subsidies does not involve any discrimination between operators, whether private, public or a mixture of the two;

PPPs as public contracts

23. Shares the Commission's view that in the award of public construction or service contracts, the selection and commissioning of the private partner should as a matter of principle comply with the public procurement directives if that selection and the award of the contract are concurrent;

24. Takes the view that the public body must be able to choose between the open and the restricted procedure;

25. Takes the view that on grounds of transparency, the negotiated procedure should be confined to those exceptional cases which are provided for in the relevant provisions of the public procurement directives;

26. Favours, on the grounds of flexibility, awarding contracts by means of a competitive dialogue where a contract entails 'legal and financial complexity', and calls on the Commission to clarify the condition of 'legal and financial complexity' in such a way as to allow the maximum possible room for negotiation; takes the view that legal and financial complexity can be assumed to be present where typical PPP features such as a life-cycle concept and a long-term transfer of risk to private operators are present; takes the view that in a competitive dialogue procedure the risk of confidential information being published outside the procedure must be eliminated;

[1] OJ L 82, 22.3.2001, p. 16.

PPPs as concessions

27. Takes note of the fact that after carrying out a detailed impact assessment the Commission would like to take legislative action; considers that if such legislation is proposed by the Commission, it should allow public authorities, through flexible, transparent and non-discriminatory procedures, to choose the best partner according to criteria which are defined in advance;

28. Expects any legislation clearly to define concessions as distinct from public contracts and to lay down objectively verifiable criteria for selection;

29. Takes the view that concessions should be of limited but variable duration, depending on the length of time taken for the amortisation of the private investment, so that competitors are not excluded from competition for an unnecessarily long time; takes the view that the duration of partnership relations should be established so that free competition is basically restricted only to the extent needed to ensure the amortisation of the investment and an appropriate return on the capital employed and to refinance future investments;

30. Takes the view that the principle of transparency requires the factors on which the determination of the duration of the contract is based to be published in the tender documents, so that tenderers can take this into account when drawing up their tenders;

31. Considers that a comprehensive approach to procurement (the life-cycle concept) and competition between tenderers in terms of innovation result in efficiency gains if, when projects are carried out jointly, risk-sharing is optimised and there are functional specifications and a highly incentivising payment mechanism;

32. Asks the Commission to draw conclusions from experience gained of competitive dialogue in order to make recommendations as to an appropriate procurement procedure in the field of concessions, as the flexibility of competitive dialogues is as a rule suited to the complexity of concessions, without jeopardising respect for the principles of transparency, equal treatment and proportionality;

33. Supports the Commission in its efforts to ascertain whether standard procurement rules should be created for all PPPs on a contractual basis, irrespective of whether the PPPs concerned qualify as a public contract or a concession;

IPPPs and 'in-house relations'

34. Supports the Commission's efforts to take action in the field of Institutionalised PPPs (IPPPs) in view of the clear signs of existing legal uncertainty;

35. Acknowledges the fact that practitioners want clarity about the application of procurement law to the creation of public-private undertakings in connection with the award of a contract or concession, and calls on the Commission to provide the relevant clarifications at the earliest opportunity;

36. Does not believe that 'in-house relations' without award procedures should be further extended in scope as this would dispense certain sectors from the need to comply with internal market and competition rules;

37. Considers it necessary, in view of the transparency requirement and the ban on discrimination, for procurement law to be applied when an IPPP is set up, in so far as the act of setting it up is related in time and substance with the assignment of a public contract;

38. Understands, in view of the proliferating case-law, the widespread legal uncertainty that has grown up in the application of in-house criteria and therefore calls on the Commission to devise criteria, based on the current case-law of the Court of Justice of the European Communities, that establish a stable frame of reference for local authority decision-making;

39. Considers that a threshold value, however defined, for the minimum stake of a public contracting authority in an undertaking whose capital is held jointly with private partners would result in certain permanent protected stakes and that any limit put forward for discussion consequently poses problems;

40. Takes the view that, if the first invitation to tender for the establishment of a public-private undertaking has been precise and comprehensive, a further tendering procedure is unnecessary;

41. Calls for a more precise definition of the concept of 'similar control', which the organising public authority exercises over the service provider, particularly in cases where semi-public companies provide, on behalf of the organising public authority and in connection with the performance of its tasks, services that are mainly funded or underwritten by the organising public authority;

Cooperation between local authorities

42. Welcomes as a general principle, in the interests of local self-government and efficient administration, some form of cooperation at local authority level, not least to bring about synergies, as long as this does not enable abuse leading to market closure;

43. Considers it necessary that the Commission clarify the legal uncertainty regarding inter-communal cooperation which has arisen as a result of the jurisprudence of the Court of Justice;

44. Shares the view of the Court of Justice expressed in its judgment in Case C-84/03 *Commission v Spain* that inter-local authority cooperation agreements cannot be exempted from procurement law across the board by means of the use of a legal form under national law; takes the view that there is a need for demarcation between measures which are purely administrative and/or organisational in nature and procurement contracts between administrative authorities;

45. Considers that cases of inter-communal cooperation are not relevant with regard to procurement law if:

- such cooperation is between local authorities,
- the tasks, the performance of which was assigned to these local authorities, are to be considered a measure of administrative reorganisation or if the supervisory powers of the local authorities concerned are similar to those which they exercise with regard to their own departments,
- the activities are essentially performed for the local authorities concerned;

46. Rejects the application of procurement law in cases where local authorities plan to carry out tasks within their territory in conjunction with other local authorities as a measure of administrative reorganisation, without offering the provision of the services concerned to third parties on the open market;

47. Considers that the delegation of responsibilities for public-sector tasks from one public authority to another does not come within the scope of Community procurement law;

48. Considers, however, that procurement law always needs to be applied when local authorities offer services on the market as private undertakings in the context of cooperation between such local authorities or arrange for public tasks to be carried out by private undertakings or other local authorities;

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49. Instructs its President to forward this resolution to the Council and Commission, the European Economic and Social Committee and the Committee of the Regions.

EXPLANATORY STATEMENT

General comments

In recent years PPPs have throughout Europe enjoyed increasing popularity. The form they have taken has varied substantially between Member States, depending on the national law concerned and the sectors in which PPPs are used. As there is no standard European definition at present 'PPPs' serves as a blanket term for agreements between public authorities and private industry. Such agreements may concern public infrastructure projects or public services.
If PPPs are properly applied they usually result in lower life-cycle costs, better risk distribution, faster completion of public works and services, improved quality and financial savings.

On closer inspection it is remarkable how greatly the development of PPPs varies across the European Union. A rough distinction may be made between three groups of Member States: a leading group, comprising the UK, France, Germany, Ireland and Italy, a mid-field and a group with little experience in this area. In view of their particular economic and political features the central and eastern European countries form a group of their own. In these countries PPPs are playing a particularly important role in creating a modern infrastructure. The leading group of Member States just mentioned is characterised by its wide experience in various sectors, ranging from road and rail to projects in the public health system, education and the prison service. These countries also often have a clear idea of the pros and cons of PPP projects in specific sectors. There are not infrequently special laws at national or regional level, and particular evaluation methods have been developed to measure their success. Other countries, such as Ireland, have set up separate government departments to ensure that 'PPP expertise' is developed and centralised.

From experience in the United Kingdom, which may be termed a 'pioneering country' in the application of PPPs, and other countries the following provisional conclusions can be drawn.

- Some sectors would seem better suited than others to the application of PPP models. Infrastructure projects in the road and rail industries have as a rule produced a measurable added value. It remains to be seen whether similar results can be obtained in the health and education sectors, and in other areas. As contracts have only been running for a short while a conclusive assessment is not yet possible here. But sectors that are subject to rapid technological change, such as the IT industry, would not appear to be suitable for PPP projects. It is virtually impossible to lay down credible quality standards over a relatively long period without obstructing potential innovation and improvement in the quality of services.
- The right choice of parameters seems important for measuring the cost-benefit ratio of a PPP project.
- There are signs that PPP projects often have the edge over traditional task allocation methods at the planning and construction stages, but sometimes run into serious problems at the operational stage.

- There is also a need for better ways of effectively reviewing and influencing implementation by the private sector. This also involves credible penalties, such as clauses for withholding payment or cancelling the contract.
- Finally, national policies and available skill levels play a key role in PPPs' development and success. The creation of specialist government departments and improvement of management skills in the private as well as the public sector are likely to result in better results in future. A change of mindset in public administration will be needed in many areas.

To sum up, PPPs are no panacea. They are difficult to plan, implement and run. They take a long time to produce tangible results. Hence it is all the more important to check thoroughly beforehand whether the public authority should set up a PPP and if so what form it should take. Governments should to start with concentrate on improving their administrative capacities and assessment methods rather than extending the use of PPPs to other sectors. It needs ensuring that with PPPs the risks are allocated to the side that can best deal with them and that the advantages of involving the private sector are used effectively. Without that approach there is a danger that the public sector will run PPP projects for the wrong reasons, such as for short-term improvement of the budget situation at the expense of sound financial management in the longer term.

On the present legal framework of PPPs it should be noted that there is no special provision in European law, either for selecting the private partner or for the implementation stage. For selecting the partner the general principles of the EC Treaty apply, as do the current directives on public contracts. Under the EC Treaty all agreements in which a public authority awards a contract are subject to the general principles on freedom of establishment and freedom to provide services in Articles 43 to 49. It follows that PPP agreements must satisfy the requirements of transparency, equal treatment, proportionality and mutual recognition. In addition, PPP agreements that count as public contracts are subject to the application of the public procurement directives. Some special provisions apply to building concessions, while service concessions are not at present covered by secondary law. On the implementation of PPPs the national laws apply and they must concord with the provisions of the EC Treaty, which take precedence.

In the absence of a uniform legal framework for PPPs at European level and in view of the heterogeneity of national laws the question arises, whether uniform provisions are needed to safeguard transparency and effective competition between market participants. In the consultations that followed the Green Paper a small majority of those taking part came out against the blanket regulation of PPPs but favoured initiatives on concessions, IPPPs and in-house relations. There was no agreement on the form of possible initiatives, i.e. whether legislative or non-legislative measures were to be preferred.

PPPs are essentially a form of public contracting. But because of the proliferating case-law of the Court of Justice, in particular, a situation of legal uncertainty has come about that ought to be tidied up. There also needs to be a careful look at where provisions can be standardised without blurring serious differences. The legislative process should as a matter of principle go carefully, because PPPs are often very complex agreements whose attractiveness can only survive in a climate of flexible regulation.

In legal terms there needs to be a clear statement that wherever a private partner is being selected transparent procedures must be chosen. Apart from the need for transparency and fair competition between market participants the main reason is that private industry and the public sector are driven by quintessentially different interests.
However, the situation with cooperation between local authorities, which is an expression of local self-government, should be judged differently.
Since the problems vary between PPPs depending on the range of issues involved they are considered separately below.

PPPs as public contracts

In the case of PPPs that are characterised as public contracts the main issue is the question of the award procedure.
With the competitive dialogue a new award procedure has appeared on the scene to join the familiar public, restricted and negotiated procedures for procurement above the threshold values. This procedure combines elements of the tender procedure with those of the negotiated procedure. Unlike the public and restricted procedures it is not an expression of subsidiarity but takes precedence over the negotiated procedure. Member States can use the competitive procedure for the award of contracts in particularly complex cases. Difficulties arise over what precisely is meant by 'particularly complex' contracts. The definition should apply when the public contractor

- is objectively unable to specify the technical means with which their needs and objectives can be fulfilled and / or

- is objectively unable to specify the legal and / or financial conditions of a project.

This poses the question of whether particular complexity is a feature of PPP projects as a general rule. Here it should be said that such projects are indeed often particularly complex but need not always be so. Rather must each case be decided on its merits. At any event it may be said that the competitive dialogue procedure deserves to take preference for the award of contracts in the PPP sector as a principle because it combines the advantages of the restricted procedure with those of the negotiated procedure. Its flexible nature enables it to obtain optimum solutions under great competitive pressure. Although its disadvantages include its complexity and the extent of effort required from all involved, these are offset by its greater transparency compared with the negotiated procedure. This reduces the risk of anti-competitive behaviour. To make the procedure easier to apply the Commission should spell out what is meant by 'legal and financial complexity'.

PPPs as concessions

One of the main points in the current debate about PPPs turns on the issue of whether service concessions should be regulated on a Community-wide basis, and if so, whether such regulation should be separate or combined with public contracts. A few years ago the Commission issued an 'Interpretative Communication on Concessions Under Community Law'. In the light of the results of this consultation the Commission decided first to evaluate

the implications, before determining whether to publish a further interpretive Communication or a proposed directive. This approach should be welcomed.

The fact that there is no obligation in this area to coordinate the law, and the further fact that very few Member States want to lay down rules for service concessions, stand in the way of a Community-wide move to open up the markets concerned. This situation not only runs the risk of a loss of competition but also leads to legal uncertainties. The latter arise primarily from difficulties with demarcation, because in the case of complex PPP projects it is not always easy to identify them as a service concession or a service contract.

The crucial advantage of legislative regulation of the procurement procedure for concessions lies in the consequent Europe-wide legal certainty. And legal certainty means investment security, which in turn has a positive impact on competition. Legislation on concessions should set out a practical procurement procedure that takes account of the special features of that legal form. It would make clear that local authorities cannot award a concession to an undertaking without a competitive tendering procedure. As a rule competition of this kind leads – wholly in the taxpayers' interest – to lower prices for the same or even better quality of service. But for as long as the need for legislation is unfulfilled the suspicion must remain that service concessions serve as a way of evading the law on public contracts.

Institutionalised PPPs (IPPPs) and 'in-house relations'

IPPPs are joint industrial creations combining private and public partners. The task of such creations is to provide or supply a service on behalf of the public, typically in the field of public welfare. IPPPs may be created by the formation of a mixed-economy enterprise, but may also arise when a private company assumes control of what was a public concern, i.e. by changing the share ownership.

This raises the question whether the two processes, new formation or a change of ownership, are relevant from the point of view of procurement law. The Commission says that the private partner of such an enterprise must be selected for the tasks involved in a transparent way and without discrimination, and must be so selected irrespective of the actual form of the contract under the procurement directives or the EC Treaty. We would agree with the Commission on this, as only the selection of a private partner in accordance with objective criteria will safeguard fair competition. When the private partner of a mixed-economy enterprise is selected, further invitations to tender for the contract would only be needless red tape. So a second tendering process should be avoided,

As part of this discussion there is also the question of whether awarding a public contract or a concession to a mixed-economy enterprise makes a tendering procedure essential, in what is known as the 'in-house' problem. Here the judgments of the Court of Justice in the Teckal and Stadt Halle cases (C-107/98 and C-26/03) have laid down the determining criteria.

Under the Teckal case-law, the participation of the awarding authority in 'semi-public' or mixed-economy undertakings does not justify exemption from the principles of procurement law. What is crucial is to award the contract to a body with independent legal personality. Accordingly an exemption from procurement law is recognised when the awarding authority

exercises over the mixed-economy enterprise a control similar to that which it exercises over its own departments and when the enterprise essentially acts for the public body. The two criteria must be cumulatively fulfilled to ensure that there is equivalence with internal entities of the contracting authority. The Stadt Halle case-law has further clarified the matter. The Court decided that public contracting authorities may award a contract to an undertaking that belongs to them without adhering to the procurement provisions only when they hold 100 % of the undertaking's capital, in other words when there is not even a small private shareholding in the undertaking. Only then, says the Court, does the contracting authority exercise control as it would over its own departments.

This case-law should in principle be approved on two counts. First, the investment of private capital in an undertaking rests on considerations that have to do with private interests, and consequently pursues aims other than those in the public interest. Second, awarding a public contract to a mixed-economy enterprise without a tendering procedure would damage the aim of undistorted competition and the principle of treating the interested parties equally. Such a procedure would give a private undertaking participating in the capital of a mixed-economy enterprise an advantage over its competitors.

Cooperation between local authorities

Under the Court's judgment of 13 January 2005 in Case C-84/03 (Commission v Spain), cooperation agreements between local authorities cannot as a rule be excluded from procurement law by a national provision. The law on contracts always applies when two legally distinct entities conclude a contract for pecuniary interest. The status of the entities is not at issue. Local authorities may also be involved. The judgment has sparked off a debate among local authorities in Europe as to whether and in what circumstances forms of cooperation between local authorities are subject to procurement law.

An answer to this question must take as its starting point the definition of a public authority. A feature of the legal system for public authorities in Europe and the Member States is the distinction between the state and society. While society, whose realm includes the economy, is characterised by freedom, private autonomy and the market, the state on the other hand, with its subdivisions, should be seen as an organised entity for exercising power and making decisions. A special feature of a federally organised state consists in the fact that its state subdivisions have separate legal personality, which distinguishes them from the overarching state. Yet they remain, in terms of the distinction from society, a part of the state's persona. Rules on cooperation between individual authorities are, as agreements under public law, part of the national administrative organisation and hence should be strictly distinguished from subordinating legal agreements between the administration and the citizen.

Seen against this background, cooperation between local authorities are essentially an agreement on the exercise of responsibility within the administrative organisation of a Member State. The Commission says that internal reorganisations of public authorities are taking place. In the case of assignments of tasks between local authorities, these are not procurement processes involving third parties but internal measures of state organisation. A task is awarded to another agency within the state. In this field, under the principle of limited

competence, the EU has no competence. Rather the national administrative organisation is disconnected from the EU, in accordance with the principle of procedural and organisational autonomy, as established in the case-law of the Court of Justice. Were one to regard such cases of reorganisation of task allocation within the overall state organisation as indeed subject to procurement law, this would be tantamount to an indirect requirement to privatise. But this cannot be the intended aim, because the state is on principle free to decide whether to provide services itself or award them to third parties on the open market. Such an idea would also be at odds with Article 295 of the EC Treaty, under which the Member States' system of property ownership remains unaffected by the Treaty.

The right of local self-government is guaranteed both nationally and at European level. From the European point of view it derives firstly from the concept of subsidiarity in Article 5 of the EC Treaty, and secondly from Articles 2 and 4 of the European Charter of Local Self-Government. Even the Treaty on the European Constitution now expressly recognises regional and local self-government and the associated structures of state organisation in Article I-5, when it says there that 'the Union shall respect the national identities of its Member States, inherent in their fundamental structures, political and constitutional, *inclusive of regional and local self-government*'.

Obviously not every agreement between authorities can per se be subject to the procurement law. Rather there is a need to differentiate between purely administrative measures and procurement agreements between administrative bodies. It is to the latter that the procurement law should apply.

To that extent not even the Court's judgment of 13 January 2005 on cooperation agreements in Spain requires a change of approach. It ultimately says only that agreements within a state organisation may not be excluded from procurement law on an absolute basis and as a general rule.

The Commission should on the basis of this approach devise criteria to ensure that the present legal uncertainty is removed.

4.10.2006

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS (*)

for the Committee on the Internal Market and Consumer Protection

on public-private partnerships and Community law on public procurement and concessions
2006/2043(INI)

Draftsman*: Werner Langen

(*) Enhanced cooperation between committees - Rule 47 of the Rules of Procedure

SUGGESTIONS

The Committee on Economic and Monetary Affairs suggests the following points to the Committee on the Internal Market and Consumer Protection for inclusion in the joint motion for a resolution on PPPs:

A. whereas numerous PPPs have arisen in many Member States over the past decade,

B. whereas in this form of cooperation, taking into account the various financial and other material constraints, private enterprise can offer its technical know-how, a business-oriented approach, and financial resources for the purpose of performing public service tasks and thus help to ensure that, even when budgets are being cut, high-quality services can be provided at attractive prices and public authorities are likewise able to deal effectively with their core activities,

C. whereas in the main, local and municipal authorities have sought to enter into PPP projects; whereas, however, there is also a need for such projects at European level, not least to implement the trans-European transport networks,

D. whereas it should be determined in each particular case whether a PPP is likely to provide added value compared with other approaches such as a traditional contract award procedure or services performed by the public authorities themselves,

E. whereas there is no standard Community-wide definition of a PPP, but PPP projects have comparable characteristics,

F. whereas under Article 3 of the EC Treaty, the non-affectation of trade, the freedom of establishment, the freedom to provide services and the freedom of movement of goods, capital and services are general principles of Community law which apply to PPPs in the context of the European internal market,

G. whereas Article 86 of the EC Treaty provides that services of general economic interest must be provided in accordance with the EC competition rules that underpin the internal market, in so far as the application of the rules do not obstruct the performance of the particular tasks of the undertakings entrusted with the operation of such services,

H. whereas Article 5 of the EC Treaty establishes the principle of subsidiarity, according to which local authorities and Member States have responsibility for defining and financing services of general economic interest,

I. whereas, as a result of various rulings by the Court of Justice of the European Communities, the form of PPP not involving an award procedure has been made subject to conditions, whereas increasing numbers of disputes about the award of service contracts are being brought before the Court of Justice owing to the lack of legal precision surrounding the concepts of in-house relations, public works contracts, public service contracts, and concessions in their various forms,

J. whereas in some new Member States, the PPP formula is chosen to attempt to disguise the increase in the public debt, which is subject to the Maastricht criteria; expresses concern that in these cases, the compensation for the private investor for losses originating from the low domestic purchasing power can result in a higher repayment fee than the ordinary instalment of the state guaranteed loans taken up for the construction of the same facilities;

K. whereas the case law of the Court of Justice is consistently vague as to the legal status of local authorities' agencies ('intercommunales') and the activities they control, both as direct contracting authorities and as service providers to their constituent local authorities,

L. having regard to the uncertain legal status of institutionalised PPPs under the general principles of Community law,

1. Welcomes the Green Paper on concessions and institutionalised PPPs and the fact that, in the wake of the public consultation, the Commission produced a communication setting out specific proposals;

2. Endorses the operational distinction proposed by the Commission between contractual and institutionalised PPPs;

3. Supports the Commission proposal to work towards a legislative initiative on the award of concessions, drawing a clear distinction between concessions and public procurement contracts, once the requisite impact assessment has been completed;

4. Expects that an arrangement will be devised regarding the right to exploit works or services, the risk entailed therein, and secure private capital input, since this will strengthen the existing incentives for PPPs;

5. Calls on the Commission to submit, before the end of 2006, a legal clarification on institutionalised PPPs in accordance with Article 251 of the EC Treaty, setting out how EU regulations should be applied when selecting private sector partners;

6. Considers that such legal clarification on institutionalised PPPs should specify a single, transparent and non-discriminatory selection procedure to be followed in order to create an institutionalised PPP and entrust it with its tasks;

7. Considers that, in order to ensure fair competition, the Commission should issue a communication clarifying the new competitive dialogue procedure, setting out ways protecting intellectual property;

8. Is opposed to separate arrangements for awards below the threshold value, since these are a matter for the Member States, which should continue to deal with them within their own jurisdictions;

9. Calls for legislative initiatives on institutionalised and contractual PPPs to clarify the legal status of local authorities' agencies ('intercommunales') under Community law, granting them, in the exercise of the powers conferred upon them, the same power to conclude contracts as the public authorities, and permitting their constituent local authorities to call on their services under the same conditions as those of their own departments;

10. Calls for clear-cut arrangements for municipal special-purpose associations when such associations only carry out tasks in a narrowly restricted local sphere of responsibility;

11. Does not believe that 'in-house relations' without award procedures should be further extended in scope, because this would dispense certain sectors from the internal market and competition;

12. Considers that the two criteria now established by the settled case law of the Court of Justice as characteristic of in-house relations – namely that the control exercised over the service provider by the organising public authority must be similar to the control the latter exercises over the organising public authority's own departments, and that the essential part of its activities must be carried out within the territory of the organising public authority – should be incorporated into EC legislation;

13. Calls for a more precise definition of the concept of 'similar control', which the organising public authority exercises over the service provider, particularly in cases where semi-public companies provide, on behalf of the organising public authority and in connection with the performance of its tasks, services that are mainly funded or underwritten by the organising public authority;

14. In accordance with the open coordination method and the exchange of best practices, approves the idea of setting up a further European agency, focusing in this instance on European PPPs, for the purpose of exchanging experiences;

15. Welcomes the fact that the Commission has set up a European PPP expertise centre in association with the European Investment Bank, and based on existing structures;

16. Considers that the centre should have the task of drawing up regular assessments of the progress and results of PPP projects and disseminating, in all official languages of the EU, expertise on good practice for the launching of PPP activities in various sectors and exchanging information forwarded to the EU institutions, which could benefit Member States and local and regional authorities;

17. Considers, after mature reflection, that a threshold value, however defined, for the minimum stake of a public contracting authority in a company whose capital is held jointly with private partners would make for permanent protected spheres and that any limit put forward for discussion consequently poses problems;

18. Considers that the outsourcing of the provision of services of general interest requires the contracting authority to award the contract on the basis of the public procurement procedure;

19. Suggests that the only situation in which semi-public companies should be required to select their private partners on the basis of an invitation to tender should be where the private partners provide services on behalf of and in connection with the performance of the tasks of the concessionary authority, which controls, finances or underwrites the essential part of such services;

20. Rejects every means of circumventing the law on public procurement and concessions;

21. Considers in this connection – with a view to potential efficiency gains from the involvement of new operators and new forms of general interest service provision – that there is an urgent need for greater legal certainty concerning the differing forms of inter-municipal organisations (involving cooperation between municipalities, self-provision in the context of in-house procurement, public-private partnership, award of concessions), for a clarification of the scope of the EC law relating to competition, public procurement and State aid, and for universal criteria that are valid throughout the EU;

22. Is of the opinion that unduly long concessions distort competition, but that it must, however, be possible to recoup and make a reasonable profit on private investments, as there will otherwise be no incentives whatsoever to enter into PPPs;

23. Is of the opinion that when tasks have been satisfactorily carried out with the assistance of private partners, restoring them to the municipal sphere of responsibility cannot constitute a sound alternative to PPPs consistent with competition principles;

24. Welcomes the fact that municipal and local government departments can choose between two alternatives, on the understanding that non-competitive contracts and concessions are inadmissible unless publicly owned companies act almost solely as a tool of the departments concerned, are directly controlled by their public stakeholders, and their operations, strictly local and bearing no relation to the internal market, are confined to practical public responsibilities;

25. Considers it right that municipalities and their subsidiaries should be permitted to be dispensed from competition principles only when they carry out their purely local tasks bearing no relation to the internal market;

26. Recommends, however, that in-house matters must be put up for tender when the tasks in question are carried out by independent subsidiaries or when such subsidiaries engage in outside business.

PROCEDURE

Title	Public-private partnerships and Community law on public procurement and concessions
Procedure number	2006/2043(INI)
Committee responsible	IMCO
Opinion by Date announced in plenary	ECON 16.2.2006
Enhanced cooperation – date announced in plenary	16.2.2006
Drafts(wo)man Date appointed	Werner Langen 21.9.2004
Previous drafts(wo)man	
Discussed in committee	20.6.2006 4.9.2006 2.10.2006
Date adopted	3.10.2006
Result of final vote	+: 34 –: 1 0: 2
Members present for the final vote	Zsolt László Becsey, Pervenche Berès, Sharon Bowles, Udo Bullmann, Ieke van den Burg, Jan Christian Ehler, Elisa Ferreira, Jean-Paul Gauzès, Robert Goebbels, Donata Gottardi, Benoît Hamon, Gunnar Hökmark, Karsten Friedrich Hoppenstedt, Sophia in 't Veld, Piia-Noora Kauppi, Wolf Klinz, Christoph Konrad, Guntars Krasts, Andrea Losco, Astrid Lulling, Cristobal Montoro Romero, John Purvis, Alexander Radwan, Eoin Ryan, Antolín Sánchez Presedo, Margarita Starkevičiūtė, Ivo Strejček, Lars Wohlin
Substitute(s) present for the final vote	Satu Hassi, Sergej Kozlík, Alain Lipietz, Jules Maaten, Vladimír Maňka, Thomas Mann, Sérgio Marques, Gilles Savary, Andreas Schwab
Substitute(s) under Rule 178(2) present for the final vote	
Comments (available in one language only)	...

31.8.2006

OPINION OF THE COMMITTEE ON TRANSPORT AND TOURISM

for the Committee on the Internal Market and Consumer Protection

on public-private partnerships and Community law on public procurement and concessions (2006/2043(INI))

Draftsman: Paolo Costa

SUGGESTIONS

The Committee on Transport and Tourism calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

A. having regard to the strategic need to update the infrastructure of the Union and especially transport infrastructure and services and logistics – from large-scale networks such as TEN-T to specific ones such as ports and airports, logistics platforms and modal interchange platforms, and those related to urban transport (car parks, local railways, tramlines, underground systems, buses and local public transport services) – which, because of their huge financial dimension, place increasing pressure on Member States' budgets,

B. having regard, for example, to the huge financing needs – beyond the Community's own resources – in the forthcoming years of the TEN-T infrastructure projects, which are estimated at EUR 600 billion in the period up to 2020 (including EUR 225 billion for the 30 priority projects of which EUR 140 billion in the period 2007-2013), which needs cannot be met except by drawing on a variety of sources involving a wide range of public and private persons and bodies via the financial incentive of Community grants,

C. having regard to the proposal for a regulation of the European Parliament and of the Council determining the general rules for the granting of Community financial aid in the field of the trans-European transport networks and energy (COM(2004)0475), which was designed to encourage public investment in the sector by increasing the Community cofinancing rate,

D. having regard to the experience of public private partnership - both 'contractual' and 'institutional' - gained over the years in some Member States, in particular in the field of

transport projects and particularly through concession-based PPPs, as a means for public authorities to optimise the value for money of public resources and share risks with private partners,

E. whereas this phenomenon assumes various forms, which increasingly involve the application of specific Community principles and rules, and has produced a set of rules which call for an initial framework, although they should be left to evolve,

F. whereas public-private partnerships can and must help to improve the quality and continuity of public service by means of arrangements for sharing risks between the public and private sectors,

G. whereas, in order to ensure that expenditure on transport infrastructure is deployed as effectively and efficiently as possible, it is necessary in any event to promote the widest possible private sector participation in the planning, construction, management and funding of infrastructures by means of transparent invitation to tender, tendering and contract award procedures,

H. whereas Eurostat identifies the way in which the main categories of risk (construction risk, availability risk and demand risk) are apportioned as the criterion for determining the impact of PPP projects on Member States' national accounts,

I. whereas, in PPPs, public undertakings and bodies may not be eligible for Community grants because they do not bear construction costs, while private undertakings and bodies may not be eligible for the same grants because they receive 'availability payments' to cover construction costs,

J. whereas the planning, decision, and construction phases of TEN projects may continue well beyond the financial framework under which grants are made available,

1. Takes the view that the Commission should adopt a legal instrument that defines guidelines with a view to bringing together existing legislation and principles as well as definitions and basic concepts underpinning the various types of public-private partnership found in Europe and which are applicable to both 'contractual' and 'institutional' PPPs in order to ensure compliance with the principles of equal treatment and uniformity among Member States while leaving Member States and their local authorities maximum freedom to settle the details of contractual or institutional arrangements, in accordance with the subsidiarity principle;

2. Considers that the legal instrument on institutional and contractual PPPs should seek to establish a list of 'best practice' and 'worst practice' in relation to PPPs, particularly with regard to the stage at which a private, public or semi-public contractor is selected, and to define the cases in which an 'in-house' solution may be applied;

3. Considers that, in the case of contractual PPPs, a prior public sector comparator and a value for money analysis are necessary for the public sector when launching a PPP project; considers furthermore that this category of PPPs, which should be understood in the wider sense of concessions, so as to include contracts whose object is the provision of public services requiring the carrying out of infrastructure works and where the majority

of the concessionaire's revenues derives from direct payments by public authorities, the legal instrument which defines the guidelines should address the stage of the selection of the private contractor and should standardise several examples of best practice – which should not, however, be binding – for public authorities and private operators; considers that these guidelines should also set out the principles which are applicable to the contractual framework following the awarding of the contract, by taking a proscriptive approach and indicating which kinds of conduct or contractual provisions conflict, or risk conflicting with the principles of Community law; futher considers that these guidelines should contribute to a well-balanced and fair share of profit and risk between public and private partners, preventing unacceptable damage to the public; lastly, considers that the Commission should provide examples of best practice in risk sharing between the public and private sectors;

4. Emphasises that the expression 'conflict of interests' should be precisely defined at EU level, in the interests of establishing fair and equitable risk sharing;

5. Considers that, as regards institutional PPPs, in view of the current lack of legal certainty, particularly having regard to the case-law of the Court of Justice of the European Communities concerning 'semi-public undertakings' (judgment of 11 January 2005 in case C-26/03, Stadt Halle and RPL Lochau), they should be placed on a more secure legal footing, on the basis of an assessment of the experience of certain Member States in that area, by a specific legal instrument to clarify the rules applicable and the link between Community rules and principles with regard to company law, competition law and the law on public contracts and concessions and that this instrument should comply with the criteria laid down in the judgment of 18 November 1999 in case C-107/98, Teckal, the principle of the administrative freedom of local authorities and the exclusive competences of the Member States, particularly with regard to property arrangements; further considers that the instrument should also establish a distinction between the rules applying to the activities of semi-public undertakings which are in the general public interest and the rules applying to activities pursued in their private interest;

6. Calls for the cross-subsidisation of concessions, a method which enables non-profitable regional development infrastructures to be financed from the proceeds of profitable infrastructures without excessive recourse to public spending, and is currently under threat from the implementation of the directive on the award of public contracts, to be regarded as constituting a separate and original type of public-private partnership and placed on a sound legal footing as such;

7. Hopes that the national accounting arrangements for public-private partnership contracts may facilitate the financing of the EU's updating of infrastructure, albeit whilst respecting the Maastricht deficit and debt commitments (press release STAT/STAT/18);

8. Calls, in the case of operations involving 'institutional' PPPs (i.e. semi-public undertakings), for the private partner to be identified on the basis of an open public procedure, in the course of which the criteria which will govern the subsequent commercial relationship between the semi-public undertaking and its private partner must also be laid down (to address the problem of 'double tendering');

9. Calls on the Commission to ensure, by exercising Community control over State aid, that the granting of subsidies does not involve any discrimination between operators, whether private, public or a mixture of the two;

10. Emphasises that, in addition to the fulfilment of the requirements of the EUROSTAT decision on the accounting treatment of public-private partnerships, further directions should be given as regards quantification of the risks associated with projects in order to prevent possible circumvention of the Maastricht criteria;

11. Believes that the leverage effect created by public private partnerships will be considerably increased when, over the coming financial framework (2007-2013) EUR 2,907 million per year will be available for TEN-T funding by the EU, as opposed to EUR 600 million during the current financial perspectives period, combined with a specific Loan Guarantee Fund designed with reference to the specific needs of PPPs and higher ceilings for EU contributions to TEN-T projects;

12. Encourages the Commission and the European Investment Bank to gather together their expertise and disseminate it especially in those countries where the authorities are not familiar with PPPs;

13. Believes that revision of the existing rules for granting Community financial aid in the framework of PPP schemes is necessary in order to remove obstacles to the effective use of this form of aid.

PROCEDURE

Title	Public-private partnerships and Community law on public procurement and concessions
Procedure number	2006/2043(INI)]
Committee responsible	IMCO
Opinion by Date announced in plenary	TRAN 16.2.2006
Enhanced cooperation - date announced in plenary	16.2.2006
Drafts(wo)man Date appointed	Paolo Costa 23.11.2004
Previous drafts (wo)man	
Discussed in committee	15.6.2005 29.8.2005
Date adopted	30.8.2005
Result of final vote	for: 45 against: 1 abstentions: 1
Members present for the final vote	Inés Ayala Sender, Etelka Barsi-Pataky, Philip Bradbourn, Paolo Costa, Michael Cramer, Arūnas Degutis, Christine De Veyrac, Petr Duchoň, Saïd El Khadraoui, Robert Evans, Emanuel Jardim Fernandes, Luis de Grandes Pascual, Mathieu Grosch, Ewa Hedkvist Petersen, Jeanine Hennis-Plasschaert, Stanisław Jałowiecki, Georg Jarzembowski, Dieter-Lebrecht Koch, Rodi Kratsa-Tsagaropoulou, Jörg Leichtfried, Bogusław Liberadzki, Evelin Lichtenberger, Patrick Louis, Erik Meijer, Robert Navarro, Josu Ortuondo Larrea, Willi Piecyk, Luís Queiró, Reinhard Rack, Luca Romagnoli, Gilles Savary, Renate Sommer, Dirk Sterckx, Gary Titley, Georgios Toussas, Marta Vincenzi, Corien Wortmann-Kool, Roberts Zīle
Substitutes present for the final vote	Zsolt László Becsey, Johannes Blokland, Den Dover, Nathalie Griesbeck, Zita Gurmai, Elisabeth Jeggle, Anne Elisabet Jensen, Sepp Kusstatscher, Zita Pleštinská
Substitutes under Rule 178(2) present for the final vote	
Comments (available in one language only)	

28.4.2006

OPINION OF THE COMMITTEE ON REGIONAL DEVELOPMENT

for the Committee on the Internal Market and Consumer Protection

on Public-Private Partnerships and Community law on public procurement and concessions (2006/2043(INI))

Draftswoman: Grażyna Staniszewska

SUGGESTIONS

The Committee on Regional Development calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

A. whereas the EU budget is continually decreasing while the number of tasks facing regional development is ever greater and the acquisition of private resources is thus becoming increasingly important,

B. whereas it is possible to increase funding for regional development objectives through public-private partnerships (PPPs), drawing on the positive experiences of some Member States,

C. whereas PPPs enable public entities to benefit from the expertise of private firms and the use of mechanisms for the distribution of risk between the public and private sectors and can lead to a higher standard and better continuity of public services as well as a reduction in the cost of carrying out tasks and savings in the limited resources available for such activities,

D. whereas the PPP formula is still not widely known and whereas, in order to overcome the doubts which exist, clear and transparent rules of conduct and expertise in this area are needed, with particular reference to the activities of public entities and businesses,

1. Recognises that at the present stage the notion of PPP needs to be better defined and, for the purpose of legal certainty, the awarding of concessions regulated with a clear differentiation between concessions and public contracts, without, however, making the legal provisions on PPPs more complex;

2. Congratulates the Commission on the public consultation undertaken through this Green Paper, regarding it as fundamental that the views of the various partners concerned, including at regional and local level be heard;

3. Considers that the rules governing the establishment and functioning of institutionalised PPPs, the means of awarding them tasks and the new competitive dialogue procedure, as regards ways of protecting intellectual property, should be clarified in Commission communications, respecting the principle of subsidiarity, as well as including explanations concerning the use of public grants in the context of PPPs, in order to ensure fair competition;.

4. Proposes that the legal uncertainty regarding in-house definitions created by the judgments of the Court of Justice[1] should be rapidly eliminated by supplementing the current Public Procurement Directive 2004/18/EC[2]; demands that all legal measures should be geared towards facilitating the start-up of institutionalised PPPs;

5. Calls on the Commission to set up as a matter of urgency and in collaboration with the European Investment Bank a European PPP Expertise Centre, based where possible on existing structures, for regular evaluations of the progress and results of PPP, the dissemination of expertise and the exchange of information on experience concerning best practice in PPP set-ups in various sectors, in all official EU languages, which will be reported to the Community institutions and from which Member States as well as local and regional authorities will be able to benefit;

6. Considers it necessary, in the context of the proposed European PPP Expertise Centre, to draw up standard projects concerning situations that frequently arise and in which PPPs give the best results; these standard projects, together with a catalogue of best practices from the Member States, would be of great help, particularly to those Member States that have trepidations about making use of PPPs;

7. Calls on the Commission, in regulating future PPP set-ups and in the current impact assessment of a legal provision on concessions, to give serious consideration to regional self-government interests and to involve representatives of regional as well as local interests in drawing up future rules;

8. Considers it essential with regard to PPPs to include private capital as part of national contributions to the Structural Funds in all Member States and to add PPPs to the list of beneficiaries under these Funds, which will lead to greater development in all regions;

9. Considers that the rapid launch of the JASPERS programme and the inclusion of the PPP formula in cohesion policy will make it possible to fund complicated PPP projects and

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[1] Judgment of 11 January 2005 in Case C-26/03 *Stadt Halle and others* v *Arbeitsgemeinschaft Thermische Restabfall- und Energieverwertungsanlage TREA Leuna*, [2005] ECR I-0001; Judgment of 13 October 2005 in Case C-458/03 *Parking Brixen GmbH* v *Gemeinde Brixen, Stadtwerke Brixen AG,* [2005] ECR 00000; Judgment of 21 July 2005 in Case C-231/03 *Coname* v *Comune di Cingia de' Botti,* [2005] ECR 00000; and others.

[2] Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ L 134, 30.4.2004, p. 114).

help produce well-prepared PPP ventures.

PROCEDURE

Title	Public-Private Partnerships and Community law on public procurement and concessions
Procedure number	2006/2043(INI)
Committee responsible	IMCO
Opinion by Date announced in plenary	REGI 16.2.2006
Enhanced cooperation – date announced in plenary	16.2.2006
Drafts(wo)man Date appointed	Grażyna Staniszewska 11.7.2005
Previous drafts(wo)man	-
Discussed in committee	22.2.2006
Date adopted	20.4.2006
Result of final vote	+: 35 –: 7 0: 0
Members present for the final vote	Alfonso Andria, Elspeth Attwooll, Jana Bobošíková, Graham Booth, Bairbre de Brún, Gerardo Galeote Quecedo, Iratxe García Pérez, Eugenijus Gentvilas, Lidia Joanna Geringer de Oedenberg, Ambroise Guellec, Pedro Guerreiro, Marian Harkin, Konstantinos Hatzidakis, Jim Higgins, Alain Hutchinson, Mieczysław Edmund Janowski, Gisela Kallenbach, Tunne Kelam, Miloš Koterec, Constanze Angela Krehl, Sérgio Marques, Miroslav Mikolášik, Lambert van Nistelrooij, Jan Olbrycht, Markus Pieper, Francisca Pleguezuelos Aguilar, Elisabeth Schroedter, Alyn Smith, Grażyna Staniszewska, Margie Sudre, Salvatore Tatarella, Oldřich Vlasák
Substitute(s) present for the final vote	Inés Ayala Sender, Bastiaan Belder, Thijs Berman, Simon Busuttil, Brigitte Douay, Louis Grech, Marcin Libicki, László Surján, Manfred Weber
Substitute(s) under Rule 178(2) present for the final vote	Sharon Bowles
Comments (available in one language only)	-

PROCEDURE

Title	Public-private partnerships and Community law on public procurement and concessions
Procedure number	2006/2043(INI)
Committee responsible Date authorisation announced in plenary	IMCO 16.2.2006
Committee(s) asked for opinion(s) Date announced in plenary	ECON TRAN REGI 16.2.2006 16.2.2006 16.2.2006
Not delivering opinion(s) Date of decision	ITRE 17.3.2006
Enhanced cooperation Date announced in plenary	16.2.2006
Rapporteur(s) Date appointed	Barbara Weiler 21.2.2006
Previous rapporteur(s)	
Discussed in committee	31.1.2006 29.5.2006 20.6.2006 4.9.2006 13.9.2006 4.10.2006
Date adopted	10.10.2006
Result of final vote	+ 30 - 2 0 0
Members present for the final vote	Charlotte Cederschiöld, Mia De Vits, Janelly Fourtou, Evelyne Gebhardt, Małgorzata Handzlik, Malcolm Harbour, Christopher Heaton-Harris, Anna Hedh, Edit Herczog, Kurt Lechner, Lasse Lehtinen, Arlene McCarthy, Toine Manders, Manuel Medina Ortega, Béatrice Patrie, Zita Pleštinská, Guido Podestà, Giovanni Rivera, Zuzana Roithová, Luisa Fernanda Rudi Ubeda, Heide Rühle, Leopold Józef Rutowicz, Andreas Schwab, Marianne Thyssen, Barbara Weiler, Glenis Willmott
Substitute(s) present for the final vote	Simon Coveney, Donata Maria Assunta Gottardi, Joel Hasse Ferreira, Konstantinos Hatzidakis, Ian Hudghton, Filip Andrzej Kaczmarek, Othmar Karas, Horst Posdorf, Anja Weisgerber
Substitute(s) under Rule 178(2) present for the final vote	Marian Harkin, Wolf Klinz, Toomas Savi, Willem Schuth
Date tabled	16.10.2006
Comments **(available in one language only)**	