

ORAL QUESTION WITH DEBATE O-0123/06

pursuant to Rule 108 of the Rules of Procedure

by Jan Zahradil, Hynek Fajmon, Ivo Strejček, Oldřich Vlasák, Jaroslav Zvěřina, Nina Škottová, Miroslav Ouzký, Daniel Stroj, Věra Flasarová, Miloslav Ransdorf, Jaromír Kohlíček, Petr Duchoň, Tomáš Zatloukal, Zuzana Roithová, Ján Hudacký, Zita Pleštinská, Milan Gaľa, Milan Cabrnach, Vladimír Remek, Vladimír Železný, Josef Zieleniec, Árpád Duka-Zólyomi, Jan Březina, Edit Bauer, Richard Ashworth, Neil Parish, Philip Bradbourn, Geoffrey Van Orden, John Bowis, Malcolm Harbour, Christopher Beazley, Den Dover, Charles Tannock, Roger Helmer, Daniel Hannan, Christopher Heaton-Harris, Philip Bushill-Matthews, James Elles, Struan Stevenson, Libor Rouček, Richard Falbr and Jana Bobošíková
to the Commission

Subject: Support for PPPs and cohesion policy

The phenomenon of public-private partnerships (PPP), which is redefining the relationship between public administration and the private sector, is developing apace and is playing a key role in cohesion policy projects as well as in terms of attaining the Lisbon objectives. This has been confirmed by both the PPP Green Paper and the Commission Communication on Public-Private Partnerships and Community Law on Public Procurement and Concessions. The mixed model, whereby a public administration institution owns the infrastructure and a private, often supranational, company carries out services on the basis of an operating contract, can be considered good and effective practice in the management of public sector services.

New Member States have to fulfil the requirements arising from Community law in a relatively short period. One example is in the area of water management, where infrastructure needs to be modernised and developed to meet the conditions of Council Directive 91/271/EEC¹ concerning urban waste water treatment. In making a commitment, the Member States and in particular the administrative authorities that own water management infrastructure proceeded on the basis that the financial resources from the cohesion fund would contribute towards fulfilling the requirements arising from the acquis. However, when it comes to approving projects under the cohesion fund involving the mixed model (infrastructure owned by the local authority and operated by a private entity), administrative authorities indicate that they are being faced with a considerable problem on the Commission side. The Commission believes that, in these cases, there can be a violation of some general EU rules, which are not precisely specified or to be found in any legislative act, and demands that some abstract 'best international practice' be followed. According to the Commission, there are problems relating to the use of PPPs in water management in various Member States, which are being dealt with on a case-by-case basis. However, beyond making general observations, the Commission has yet to put forward any relevant legal argument demonstrating that Community law is being broken in these cases and that aid therefore cannot be provided from the cohesion fund. By its actions, which are not based on any proper legal argumentation, the Commission is preventing the proper use of the cohesion fund for the purposes of fulfilling the commitments placed on the Member States by Community law. As a result of the Commission's position, a number of projects using the PPP model that are having a fundamental impact on citizens' quality of life are under threat. If it was in a position in which Community law was being violated in the use of PPPs, the Commission, as guardian of the Treaties, would surely initiate infringement proceedings without delay.

How does the Commission intend to resolve this situation so that Member States can absorb financing from the cohesion fund and at the same time fulfil the requirements laid down in Directive 91/271/EEC to which they are committed under the Accession Treaty? How does the Commission intend to ensure legal certainty for administrative authorities and their partners and to

¹ OJ L 135, 30.5.1991, p. 40.

guarantee the principle of equal treatment?

Tabled: 19.10.2006

Forwarded: 23.10.2006

Deadline for reply: 30.10.2006