



IMPLEMENTATION OF PUBLIC PROCUREMENT AND INTER-MUNICIPAL COOPERATION

Public Hearing on Review of the workings and effectiveness of the Public Procurement Directives
20 April 2006

Dear ladies and gentlemen,

As a representative from one of the new member states I would like to introduce our position on the issues regarding public procurement requirements as well as its implications on inter-municipal cooperation.

Latvian Association of Local and Regional Governments has been involved in preparation process of normative documents regarding public procurement. This led us to certain conclusions related to many problems both - on national and European level.

I would like to stress that Latvia is the leader among EU member states in regard to determination of thresholds in the legislation concerning public procurement issues. The procedure of public procurement is applied as from the threshold of EUR 14 229.

((In Lithuania – LTL 75000, EUR 21722) It is applicable both in case of the purchase of goods and services (in Lithuania – exceptions for construction), as well as in case of building.)

Moreover Latvia uses additional procedure of public procurement so called “price survey”, which is alike the procedure of tender. The difference lies in the fact that the “price survey” provides for the shorter term and the choice of the bid based on the “lower-price principle”.

These restrictions have caused several problems which are common for Latvian, Lithuanian and Estonian municipalities:

1. Unfounded bureaucracy – municipalities are forced to elaborate documentation in order to implement public procurement in case of small procurements, and entrepreneurs are forced to prepare the documentation in order to submit the proposals.
2. Additional expenses - in case of “price survey”. It raises the costs for about 10%.
3. Loss of time – due to bureaucracy the process of public procurement leads to absurd situations, e.g., renovation of school premises disturbs the learning process in cases if it has not been started on time and has not been finished before the beginning of the school year.
4. Decisions are taken without foundation – the decision does not come into force, because the competitor maliciously submits complaint regarding the implemented procurement. The cause is delay of time, and it is not possible to

Inese Matvejeva, Adviser on Finance and Economic Issues, Latvian Association of Local and Regional Governments

perform the work either due to definite circumstances, e.g., excavation works during winter period, or the winner refuses to conclude contract due to inflation.

5. The agreement has to be concluded a priori for the lowest price, and the outputs are of a low quality.

Above mentioned problems are closely connected to inter communal cooperation. At this point I would like to refer to the experience of our Czech colleagues.

According to *acquis communautaire*, from 2010 on all municipalities with more than 2,000 inhabitants must ensure treatment of their sewage waters. In order to put up with such a requirement, bigger municipality could set up a voluntary association with smaller neighbouring local authorities. The association could apply for a project under the EU Structural Funds. However, such a project belongs to public procurement regime and the good intentions of the local authorities – to combine resources and economise – fails, because they have to issue public tender. This is a clear example of the EU public procurement legislation being an obstacle to inter-communal cooperation.

Apparently, it would have been much easier for bigger municipality not to take into account interests of other municipalities and reconstruct the sewage treatment plant just for the needs of its citizens. However, for the other municipalities - too small, it is impossible to build such a plant on their own. Consequently, they will not be able to fulfil requirements laid down in *acquis communautaire*.

Municipalities of the Baltic States have common view point with Czech and Swedish colleagues that there should be an exemption in the public procurement directives giving the local authorities and regions option to buy directly from their own companies if they think that this is the best way to solve a problem.

If we think about implications of this issue on entire EU scale, there are following problems:

1. Stricter requirements reduce external competitiveness of Europe.
2. Heavy regulation leads undeniably to the limitation of free movement of capital.
3. Direct facilitation of bureaucracy.