

WRITTEN QUESTION P-4457/07  
by Bernard Poignant (PSE)  
to the Commission

Subject: Pooling of services

In a reasoned opinion addressed to France, the Commission stated that the provision of the Local Authority Code allowing a municipality which is a member of a public establishment for cooperation between local authorities (EPCI) to make its services available to that EPCI so that it can fulfil its responsibilities was in breach of the European Public Contracts Directives.

The Commission considers that this provision of services, the arrangements for which are determined by agreement, is tantamount to awarding a public contract privately without complying with the directives.

It should be borne in mind that France has more than 36 000 municipalities (communes). In order to improve its territorial organisation, an approach of intermunicipal cooperation has been adopted, which enables municipalities in a given area to join together and transfer some of their responsibilities to a public establishment for cooperation between local authorities, thereby serving their citizens more efficiently. This approach inevitably requires administrative resources. Allowing an EPCI to make use of the administrative services of one of its member municipalities is an internal measure aimed at administrative and budgetary streamlining. It is a way of resolving any organisational difficulties that arise from the transfer of responsibilities and of saving public money by pooling local authorities' human and material resources. This measure clearly has no bearing on the way the internal market operates.

Is the Commission aware of the consequences of its interpretation of this provision? Is it not rather of the opinion that this matter concerns the internal workings of local authorities and does not, therefore, fall within the scope of the code on public procurement, as stated in the Law of 13 August 2004 on local authorities' freedoms and responsibilities?