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Committee on Regional Development

2006/2043(INI)

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 Staniszevska

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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 Justice¹ should be rapidly eliminated by supplementing the

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.

current Public Procurement Directive 2004/18/EC¹; 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 help produce well-prepared PPP ventures.

¹ 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).

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 Staniszevska 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 Staniszevska, 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)	-