



EUROPEAN COMMISSION

Brussels, 11. 12. 2012  
C(2012) 9322 final

*Dear President,*

*The Commission would like to thank the Poslanecká sněmovna for its Opinion on the proposal for a directive on procurement by entities operating in the water, energy, transport and postal services sectors {COM(2011) 895 final} and apologises for the delay in replying.*

*The financial interaction between the public and private sectors makes procurement a risk area for unsound business practices such as conflicts of interest, favouritism and corruption. The proposal aims at improving the existing safeguards against such risks. In particular, the specific provision on conflicts of interest only provides for minimal harmonisation, with basic standards which already exist in many Member States, and it is furthermore limited to contracting authorities (it does not apply to undertakings).*

*As for the governance measures and the corresponding public oversight system, the evaluation of the current Directives (2004/17/EC and 2004/18/EC) has shown that not all Member States are consistently and systematically monitoring the implementation and functioning of public procurement rules, and that the efficient and uniform application of EU law is therefore compromised. Additionally, in the context of the use of structural funds, the identified error rate due to the misapplication of public procurement rules is much too high (40%).*

*The Commission has concluded that a single body with overarching tasks would, in particular, be able to suggest appropriate remedies to more structural problems and to provide immediate feedback on the functioning of the policy and the potential weaknesses in national legislation and practices, thus contributing to the quick identification of solutions as well as to the improvement of procurement procedures. However, according to the proposal, the function of the single oversight body could be limited to coordination tasks, such as monitoring. Oversight and support structures, or mechanisms existing at national level, could be used to ensure the required tasks (see recital 52 of the proposal on public procurement).*

*Ms Miroslava Němcová  
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of the Parliament of the Czech Republic,  
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*In this context, the Commission has noted that the issue of the necessary improvement of the implementation and enforcement of EU public procurement law at national level was debated in the Competitiveness Council of 30 May.*

*I hope that this clarification addresses the concern expressed by the Poslanecká sněmovna and I look forward to continuing our political dialogue in the future.*

*Yours faithfully,*

*Maroš Šefčovič  
Vice-President*