

**Proposal for a directive
of the European Parliament and of the Council
on the award of concession contracts**

***COM(2011)0897 – C7-0004/2011 – 2011/0437(COD)
Commission of Internal Market and Consumer Protection***

1st reading at the European Parliament in July 2012

Project of report on the proposal for the directive

Reasons why different actors (professional groups, unions, ONG) fight against this proposal in Germany

- It limits constitutional rights concerning the self-government of municipalities (Art-28/2 Constitution)
- It contradicts the Lisbon Treaty which guarantees to Member States their national identity and local self management structures (Art 4/2)
- It contradicts the principle of subsidiarity belonging to the EU values concerning general interest services (Protocol on general interest services / Art 1)

**The proposal threatens the democratic legitimacy.
It is dangerous for democracy.**

Transactions in-house

- The proposal includes the so called in-house transactions where public administration grants a concession to a body controlled by itself
- The proposal affirms: «*However, the application of concession award rules should not interfere with the freedom of public authorities to decide how to organize the way they carry out their public service tasks* »
- The European Court of Justice has issued a judgment allowing public companies the free choice of their bidder (ECJ C-206/08 10.09.2009)
- The proposal as it is currently formulated hinder public authorities autonomy

The commission is reducing little by little the right of public authorities in choosing their partners (In-house).

Privatisation

- Worries that Suez and Veolia buy back the water companies in Germany thanks to dumping, that they dismantle the structures guaranteeing a very good quality water, that they neglect the protection of the resource and of the environment in general
- Water is a matter of trust and it is the heart of public services (DCE 2000/60 22.12.2000). It must not be privatized in any case

Fear of the private companies (Suez, Veolia...) and of a risky water management.

Fear that water become just a commodity.

Bureaucracy

- The proposal asks for a relevant administrative effort in terms of personnel and competence: difficult European forms, need of support by very expensive specialized firms not affordable for small municipalities
- Refused companies can appeal: long procedures in the sensitive domain of water

**Inflation of bureaucracy,
growth of expenses, legal disputes.**