Statement on Public-Public Cooperation and In-House Provision in the Revision of the Public Procurement Directives

The Council of European Municipalities and Regions (CEMR), representing Europe's local and regional governments as contracting authorities, strongly opposes calls and proposals to further restrict public-public cooperation and in-house provision.

Public-public cooperation and in-house provision are essential instruments that allow public authorities to organise, deliver and manage public services directly, either through cooperation with other public authorities or through entities under their control, without the need to outsource these activities to external operators.

Anchored in the Treaties, EU Law and the right to self-organise public services

Such proposals to restrict them contradict the Treaties and established CJEU case law. Protocol No. 26 to the Treaty on the Functioning of the European Union emphasises the shared EU value that **national, regional and local authorities have an essential role and wide discretion to provide, commission and organise services as closely as possible to users' needs**. This is also embedded in the current directives that state in the recitals[1] that nothing obliges public authorities to contract out or externalise the provision of services that they **wish to provide themselves**.

Also, the CJEU has consistently upheld this value[2], which confirms that public authorities must retain the possibility of performing public tasks by their own means, without being obliged to turn to external market operators. Also, aligning is the European Parliament's resolution of 9 September 2025 on public procurement (C/2026/1470), which explicitly recognises that "*the freedom and autonomy of public authorities must always be safeguarded and respected".*

Public-public cooperation and in-house provision deliver value, efficiency and local choices for citizens

Public procurement is an important tool, but it is not an end in itself. Local and regional authorities, as democratically elected institutions, must remain the ones to **choose the delivery model that best serves the public interest**, including in-house provision and cooperation between public authorities, with respect to the **subsidiarity principle**, where this ensures better quality, continuity, resilience and value for communities.

Moreover, proposals opposing public-public cooperation and in-house provisions are **not supported by evidence**. No data demonstrates that they systematically distort competition or reduce quality and value for money. In practice, cooperation between contracting authorities often **improves efficiency,**

[1] Directive 2014/24/EU Recital No 5. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024
[2] Examples of Case C-26/03 and Case C-15/13

creates economies of scale, facilitates long term investments, and can even **generate additional procurement opportunities** for private operators through coordinated downstream purchasing. The recent remunicipalisation of public services, such as water services in Paris and Berlin, also shows that bringing services back under public management can **lead to lower tariffs, improved service quality and stronger infrastructure investment**[3] in favour of the citizens' interest.

Protecting public operators in a fragmented and uncertain context

At a time of growing geopolitical instability, cybersecurity risks (cloud sovereignty) and increasing pressures on public service resilience, public authorities must **retain the flexibility** and possibility to organise services in-house or through trusted public-public cooperation. Restricting these tools would weaken Europe's strategic resilience and local authorities' ability to safeguard essential services.

Restricting these options would in practice **disturb the current provision of essential public services** of local and regional authorities within different Member States and different models for providing public services. Such an approach would not only reduce democratic control over service provision but would also put many existing **public operators and local public undertakings at risk**. Unlike private companies, public operators adhering to public law are established to fulfil territorially defined public service missions and cannot simply shift their activities to other markets or jurisdictions. Imposing a market-first logic would therefore **undermine established public service ecosystems**, weaken local and regional operational capacity and risk the discontinuation of valuable public activities that directly serve communities.

Furthermore, **publicly owned operators are important participants in procurement markets as contracting authorities themselves**. For example, municipality and region-owned companies in Sweden advertised 4,312 procurement procedures in 2025, out of a total of 18,015 published that year. Restricting in-house provision could therefore lead to costly and disruptive reorganisations of public service delivery without necessarily generating the market benefits that its proponents anticipate.

CEMR therefore calls on the European institutions not to consider such calls and to provide **greater legal certainty, not further restriction**, in the revision of Art. 12 of the Public Procurement Directive. In particular, CEMR proposes to clearly define public-public cooperation in Art. 12 as **any contracts or agreements concluded between two or more contracting authorities for the joint performance of public tasks**. This clarification should preserve the right of local and regional authorities to self-organise while ensuring transparency and legal certainty.

The revision of the Directives must respect the fundamental principle that public authorities have the democratic right to organise public services in the way that best meets the needs of their communities.

[3] CEMR's Position paper on water resilience "Enhancing sustainability and adaptation through effective governance and cooperation with municipalities and regions"

About CEMR:

The Council of European Municipalities and Regions (CEMR) is Europe's first and broadest association of local and regional governments. We are the only organisation that brings together 60 national associations of local and regional governments from 41 countries.

We empower cities, towns, and regions to build peaceful, inclusive, just, and resilient communities by amplifying their voices at European and international levels. Our aim is to ensure that local leaders are fully equipped to drive the sustainable transition of their territories to effectively respond to global challenges.

CEMR also serves as the European section of the global organisation United Cities and Local Governments (UCLG). Transparency register: 81142561702-61

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