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Mr Frank BSIRSKE
President
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Ares (2021) 4357162

Dear Mr Bsirske,

Thank you for sharing with us the open letter of the services trade unions calling for an amendment of the Union public procurement rules in order to ensure that public contracts are not awarded to companies that have not adhered to collective agreements.

We fully share the view that public resources should be devoted to funding decent working conditions and wages. Creating fair working conditions will be crucial for a resilient recovery from the crisis. It is also essential to ensure that the services purchased by public buyers across the Union and offered to European citizens are delivered at the required level of quality. Securing good working conditions and wages for workers in these sectors also ensures citizens can benefit from high quality services.

The current Union rules on public procurement already require Member States to ensure that companies operating either as contractors or subcontractors of public buyers comply with obligations established by collective agreements in the performance of public contracts¹. Public buyers also may exclude, or may be required by Member States to exclude those companies, which fail to comply with such requirements, from public procurement procedures². Furthermore, the Commission's proposal of October 2020 for a new Directive on adequate minimum wages³ recognises the role of collective bargaining in ensuring that workers are protected by adequate minimum wages. This is why the proposal includes a specific provision on public procurement, further clarifying that, in the performance of public contracts, economic operators should comply with the wages set out by relevant collective agreements.

¹ See, for instance, Article 18(2) of Directive 2014/24/EU and Article 71(2) thereof.

² Proposal for a Directive of the European Parliament and of the Council on adequate minimum wages in the European Union, of 28 October 2020, COM(2020) 682 final.

³ See, for instance, Article 57(4)(a) of Directive 2014/24/EU and Article 71(6)(b) thereof.

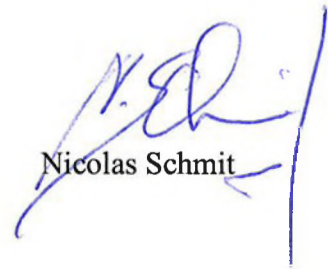
Nonetheless, legislative action alone cannot ensure decent working conditions and the application of relevant collective agreements to workers performing public contracts. Lowest-price procurement benefits neither workers nor citizens, or public institutions and there is a need to encourage a shift towards quality-based public purchases. The Commission proactively promotes the use of quality considerations in public procurement, including those relating to labour conditions and social impact. The Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, in particular, works closely with national authorities and public buyers in order to encourage them to consider the social impact of their purchases on workers and the wider community alike. The new guide on socially responsible public procurement⁴ provides further indications and useful examples on matters of social impact and labour standards.

We are confident that a Union legal framework strengthened by the minimum wage initiative, coupled with efforts to promote a more socially responsible use of public procurement, will contribute to solidify the importance of collective agreements in public contracts across the EU.

Yours faithfully,



Valdis Dombrovskis



Nicolas Schmit

⁴ [Buying Social – a guide to taking account of social considerations in public procurement](#)