

**COMMENTS ON THE COMMISSION'S PROPOSAL
FOR A REGULATION ON
THE COMMON PROCUREMENT VOCABULARY
(Doc COM (2001) 449 FINAL, DATED 3 AUGUST 2001)**

1. General Comments

UNICE welcomes the presentation of the proposal for a Regulation on the Common Procurement Vocabulary (CPV). It is the right approach to replace the various number code systems mentioned in the EC Directives on public procurement with the CPV.

2. Comments on the legal techniques of introducing the CPV

Introducing the CPV by means of an EC regulation may be seen as an appropriate way to guarantee directly binding implementation of that number code throughout the EU Member States.

In its present form the draft regulation may, however, cause legal uncertainties for procurement practice. On the one hand the proposed regulation introduces the mandatory application from the day it comes into force. On the other hand the wording of the existing EC Directives on public procurement as well as the relevant national laws which still mention the older nomenclatures can only be changed after a longer period of time due to the relevant Parliamentary procedures for legal changes at both European and national level. This may take more than two years. Consequently, for such a long period of time the wording of the EC Directives and national legislation would diverge from the contents of the CPV Regulation.

While a limited circle of law professionals may know about the relationship between EC Directives and regulations, many practitioners not especially skilled in EU law would certainly be confused by the divergent wording of actual procurement provisions. This would be directly contrary to the Commission's aim of simplifying EU procurement law. It would cause problems especially for small and medium-sized enterprises.

For the reasons stated above, UNICE suggests that a solution should be found which will avoid such divergence of procurement legislation. In order to reach this aim, consideration should be given to bringing the Regulation on the CPV into force only after a certain period of time which would be sufficient for changing at least national procurement legislation accordingly.