



# EUROPEAN BUILDERS CONFEDERATION

## MINUTES

EN

### EBC BOARD OF DIRECTORS

Friday 1<sup>st</sup> March 2013, 09.00-13.00  
Brussels, Belgium

#### Participants:

Mr. José Antonio CALVO DELGADO	CNC / EBC, President
Mr. Patrick LIÉBUS	CAPEB / EBC, Vice President
Mr. Andrea MARCONI	ANAEPA / EBC, Past President
Mr. Stefano BASTIANONI	ANAEPA
Mr. Filip VERKEST	BOUWUNIE
Mr. Jean-Marie CARTON	CAPEB
Mr. Jean-Claude CONDOU	CAPEB
Mr. Dominique PROUX	CAPEB
Mr. Ferdinando DE ROSE	CNA
Mr. Rinaldo INCERPI	CNA
Mr. José Pablo MARTINEZ MARQUES	CNC
Mr. Patrick KOEHNEN	FDA
Mr. Nicolas RUFENER	FGMB
Mr. Ron STORER	FMB
Mr. Ladislav KROCEK	SDMSZS
Mr. Renaud MARQUIE	SNSO
Mr. Riccardo VIAGGI	EBC Secretary General
Mrs. Alice FRANZ	EBC
Ms. Valeria MAZZAGATTI	EBC
Mr. Fernando SIGCHOS JIMÉNEZ	EBC
Mr. Jari KALLIO	European Commission
Ms. Dorota PRZYLUDZKA	European Commission



**Mr. Calvo Delgado** welcomes all the members to the board meeting, gives apologies for Mr. Waeytens' absence and welcomes back the Swiss federation FGMB and its representative, Mr. Rufener. He gives the floor to the representative of the European Commission (EC), Mr. Jari Kallio, who presents the state of play of the trilogue negotiations on public procurement.

### **Public Procurement (PP) – Trilogue**

**Mr. Kallio** introduces the positions of the EC, the European Parliament (EP) and the European Council on PP, emphasizing the key points for SMEs. The target is to publish the directive by June 2013.

The Council wants very short deadlines for tenders while the EP is closer to the EC proposal. Social and environmental standards will definitely appear in the final document, only their extension is to be discussed. The negotiation on the access of SMEs to PP has been divided into 3 parts: the division into lots of contracts for tenders above 500.000€ and the “apply or explain” principle before the award of a contract are supported by the EC and the EP but the Council is pushing for the “apply or explain” principle after the award of a contract; the required annual turnover for the bidding enterprises will likely be negotiated between 3 (Council) to 2 times the value of the contract (EP) ; finally, the EC emphasizes the fact that SMEs have small administrative resources and proposes an *self-declaration system* to guarantee the capacity to respond to an offer.

The EC wants a limit of 10% private activity-90% public activity for public enterprises in order to establish fair competition, while the EP and the Council proposed 20% private activity: this limit may be higher than the EC proposal. The creation of national info-centres on PP proposed by the EC has been sidelined in the negotiations. The EC does not want the lowest price or the economically most advantageous offer to be the criteria for the award of a contract anymore and stresses quality criteria. The EC does not support the proposal to foster local businesses and does not want to encapsulate the Posting of workers directive into the PP directive. The EP proposed the full subcontracting chain to be legally responsible while the EC wants the main contractor to be only liable for its direct subcontractors.

**Mr. Calvo Delgado** declares that the construction sector has always fought against abnormally low tenders. Current public administrations are seeking such low prices that SMEs cannot tender or work properly. It is difficult to foster local enterprises as enterprises should benefit from free movement as workers do.

**Mr. Liébus** underlines the importance of direct payment to subcontractors in order to secure SMEs. Foreign low-cost enterprises are another issue as they apply extremely low prices; in France, a study is conducted on the non-payment of the host country VAT as an explanation to the phenomenon: subcontractors are paid all taxes included but go back to their country without paying the VAT in the host country. Doing so, they *de facto* benefit from an economic threshold equivalent to the VAT of the host country. Time is of great importance for SMEs as they need to be secure groups of enterprises to access bigger markets.

**Mr. Marquie** targets negotiated procedures and competitive dialogue procedures as problems. These procedures often sideline SMEs, which have no choice but to offer very low prices to remain actives.

**Mr. Bastianoni** recalls that late payments affect mainly SMEs. The contracting part should not make any additional payment to the main contractor as long as the main contractor has not paid all its subcontractors. Abnormally low prices do not respect contractual law. He asks stricter rules at the European level.

**Mr. de Rose** shares 2 examples of best practices in Italy: the acquisition units (*centrali d'acquisto*) for small municipalities which are not able to follow complex procedures and e-procurement. He stresses the importance of division of contracts into lots and shares an example of a 120 million EUR contract in Italy, to which it was impossible for SMEs and even consortia to tender. He asks which is the political driver regarding EU social standards as their application is a heavy administrative burden for SMEs.

**Mr. Condou** asks which strategy EBC should follow for the Council to support SMEs as it will arbitrate the negotiations.

**Mr. Liébus** stresses the importance of short supply chains. He supports the “only once” principle and the electronic passport to simplify administration. SMEs have the capacity to realise quality work and are able to respond to all the imposed norms.

**Mr. Rufener** says that even though Switzerland is not an EU member, Swiss SMEs meet the same problems. He stresses the dominion of demand on supply. He adds that division into lots does not always allow tendering for high offers, leading to the creation of consortia, which are later criticized for distortion of competition as the number of offers decreases. Competition is not fair if demand imposes its conditions.

**Mr. Kallio** answers that VAT issues are not to be linked to PP. He adds that Competitive dialogue procedures are not often used, among others because it is heavy for SMEs. Unlike the EP, the Council is against direct payment to subcontractors for civil law reasons. The EC stands for quantitative criteria to identify abnormally low tenders but both other EU institutions are against it. If division into lots remains, its practical application will have to be studied; Member States (MS) should also be encouraged to foster allotment. The EC proposed a "PP passport" supported by the EP, but the Council favours more collaboration between MS. The DG Internal Market has never been enthusiastic about integrating social standards into PP, unlike other DGs: only the extension of social and environmental standards remains unanswered. The EP demands a stricter regime for PP and wants to link it with the Posting of workers directive.

**Mr. Koehnen** explains that the initial 50% percentage to identify abnormally low tenders will not prevent excessive price deflections or social dumping. In Luxembourg, the contracting authority must execute a pricing analysis if an offer diverges of 15% from the arithmetic average of the other offers, excluding the lowest and the highest offers.

**Mr. Kallio** declares that the EC may not exclude anyone as there always might be a good explanation.

**Mr. Calvo Delgado** thanks Mr. Kallio and the delegates.

## **ACTIVITIES OF THE BOARD**

### **1. Approval of the minutes of the previous board meeting**

The minutes are approved unanimously.

### **2. For discussion**

#### **On Normapme: update**

**Mr. Calvo Delgado** demands a reaction from EBC following the dissolution of Normapme. He proposes to create a new standardisation management structure within UEAPME, with a leading role for EBC.

**Mr. Viaggi** explains that a new European regulation for standardisation entered into vigour on the 1st January 2013. This new regulation facilitates the support and financing of a European organisation enabling SMEs to access European standardisation; however, it has not been applied due to financial issues related to the Annex 3 of the regulation. The EC had promised that the call for proposals would be published by end-2012 but the call is not likely to be published before April 2013, with the funding starting in June/July or even September, without retroactive conditions for the eligibility of expenditures.

The financial situation of Normapme was not viable anymore, with monthly fees around 125.000 EUR, debts towards UEAPME and without the last funding from the EC for the July-December 2012 contract. The dissolution of Normapme was unavoidable. Normapme's administrators decided its dissolution by the legal authorities, as advised by a lawyer following the case to protect the administrators and the founding members as EBC. Normapme will not have physical and human resources from the 2 March onwards. Normapme has been summoned by the judge on the 7th March.

Normapme will be able to fulfil its legal obligations (workers' compensation, social security and VAT) thanks to the last contract with the EC. On the 25<sup>th</sup> February, Normapme organised its last board of directors. The dissolution by the legal authorities, requested by the President, was supported unanimously. All the members expressed their will to think about the future of standardisation for SMEs following Annex 3. The political message to the EC was frustration as administrative delays and shady political pressures resulted in the dissolution of a structure which had been a great tool for SMEs for 17 years.

He proposes a working group within UEAPME with a leading role for EBC to tender for the EC call for proposals that will be published in spring 2013. There may be a risk of financial impact, as Normapme will not be able to pay the last two TC 33 expert invoices, a net loss of 4500 EUR. However, this financial impact may

be equivalent to zero as EBC will not have to pay a contribution fee of 4500 EUR in 2013, except if EBC funds the new structure within UEAPME.

UEAPME has also some problems. EBC is not a member of UEAPME Board of directors. UEAPME has no Secretary General since the 1<sup>st</sup> January 2013 and has financial issues. An independent consultant is auditing the internal situation of UEAPME regarding funding, political issues, contributions, sectorial policies and standardisation. On the 26<sup>th</sup> February, the President of Normapme took the floor in UEAPME board to announce the dissolution of Normapme and its impossibility of settling its debts towards UEAPME. The President of Normapme asked if standardisation was still a strategic issue and if UEAPME could endorse the responsibility to answer the call for proposals: the political decision was positive but the practical, timing and financial aspects remain to be analysed. Some elements of the call are already known: the co-financing rate, a few eligibility criteria and the main drivers.

UEAPME is the only European organisation with a focus on sectorial policies and includes 50 European organisations from several sectors. UEAPME is radically rethinking sectorial policies but it will not affect EBC as EBC only has a partnership contract with UEAPME.

**Mr. Calvo Delgado** says that the EC did not want to save Normapme. He believes that the call for proposals will be published as soon as Normapme will not be able to answer to it officially.

**Mr. Condou** reminds that standardisation concerns professions and trades. EBC must participate in the reflections on the future of standardisation in order to prevent a corporate control. He explains that in France, if a structure which dissolution has been officially pronounced is used as some kind of basis for a new structure, the creditors of the first structure can demand the new structure. EBC has 2 options: EBC can participate in a new smaller structure or EBC manages its own structure with European funding. He reminds the requirement of the EC to choose between lobbying and technical analysis of norms, as Normapme was asked to do. EBC must continue its lobbying activities. The best option is a new external structure, not solely construction-related.

**Mr. Krocek** says that standardisation is of the greatest strategic importance for SMEs. He asks if a concrete post-7 March action plan already exists. He also asks which are the EC eligibility criteria for the call for proposals, which are the competitors and if the new structure will not be disadvantaged due to its link with Normapme.

**Mr. Bastianoni** regrets the situation of Normapme and asks if there was a lack of anticipation regarding the delay of the call for proposal. EBC must not inherit of Normapme financial problems.

**Mr. Liébus** asks to work on several scenarios and to focus on a new well-balanced structure regarding staff, costs and support. Some prospection must be made to find new crafts organisations that might be interested in the project. The new structure needs to be safe from any claim from the creditors of Normapme under Belgian law. He asks for a quick reaction in order to remain active in standardisation. He asks for a quicker communication from the Secretariat when such complexes situations happen.

**Mr. Calvo Delgado** answers that the situation of Normapme was known ever since Mr. Viaggi was appointed as a treasurer of Normapme. He proposes to create a new structure in charge of standardisation within UEAPME as long as it is secure under Belgian law. He adds that UEAPME should be legally responsible of the new structure and that EBC will only be a leader.

**Mr. Viaggi** answers that he rejects any financial participation of EBC. He rather foresees an affiliation of EBC to the new structure, which may be called UEAPME-Standardisation. All the members of Normapme were European sectorial professional organisations; the national organizations at the Board of Administration were mandated by UEAPME.

He confirms the scenario of a working group within UEAPME with a leading role for EBC. The EC has already received messages addressing its amount of responsibility in the Normapme case. He does not agree with the idea of a premeditated will of the EC to harm Normapme but he knows that FIEC, Orgalime, BusinessEurope and Cen-Cenelec exerted pressures. Normapme could have done better during its 17 years of existence. The structure did not match the co-financing rates. There is a true chance of a new start. He does not believe that the new structure will be disadvantaged because of its proximity with Normapme. The experts that have been working with Normapme must be secured in order for them to collaborate with the

new structure. EBC has got some confidential information on the call even though it has not been published yet.

The lawyer of Normapme is aware of the general will to create a brand-new structure and has not said anything about any duties towards the creditors of Normapme. He will ask her the question straightforward.

**Mr. Calvo Delgado** asks if all the members of the board agree with EBC taking a leading role regarding standardisation. Mr. Viaggi will work to this end, with the relevant staff and will keep posted the members. He asks for a report on the legal responsibilities of the new structure.

#### THE BOARD OF DIRECTORS APPROVES THIS WORKING PROPOSAL.

#### **European Construction Action Plan – EBC's role and participation in the thematic groups**

**Mr. Calvo Delgado** explains that on the 29th January 2013 he participated in the High level Strategic Forum in Brussels in the framework of the European Construction Action Plan.

[Please see EBC Newsletter 1/2013 for more information]

This Forum was a first step towards the creation of 5 thematic working groups which will report to the Forum twice a year. These working groups will soon start, that is why national experts are required to represent EBC. He adds that he introduced EBC to high level national representatives, architects, engineers and European representatives of construction products.

**Mr. Viaggi** calls for 5 candidates for the thematic working groups. [Please see EBC Newsletter 1/2013 for more information]

**Mr. Calvo Delgado** asks if English will be the working language of the groups.

**Mr. Viaggi** specifies that English is the working language of the groups, without interpretation services or payment of travel expenses.

**Mr. Calvo Delgado** asks how many times the experts will gather together.

**Mr. Viaggi** answers that the experts will meet twice a year: the first range of meetings will be held from the 16<sup>th</sup> March until the 13<sup>th</sup> May and the second range from the 12<sup>th</sup> September until the 21<sup>st</sup> October.

**Mr. Liébus** asks if a French expert may be accompanied by someone from the secretariat on the 13<sup>th</sup> March in order to help them resolve the linguistic issue.

**Mr. Calvo Delgado** asks for the approval of the board to allow EBC to pay translation fees when it is necessary. The absence of CAPEB in a working group on energy efficiency would be very prejudicial.

**Mr. Liébus** approves Mr. Calvo Delgado's proposal regarding translation fees and asks if the linguistic help will be provided by an external translator or someone from EBC secretariat.

**Mr. Calvo Delgado** answers that the first option is the multilingual staff of EBC and adds that he regrets that the EC does not cover linguistic services this time.

**Mr. Viaggi** says that the secretariat staff will be able to participate to most of the meetings.

**Mr. Liébus** proposes Mr. Carton as EBC representative for working groups 1 and 3.

**Mr. Incerpi** says that CNA is assessing its participation to the thematic groups. Help from an interpreter may be an incentive.

**Mr. Martínez Marqués** asks for the approval of the board in order to communicate to the EC that some of the best national experts will not participate in the working groups because of the linguistic obstacle.

#### THE BOARD APPOINTS MR. CARTON AS AN EBC EXPERT.

### **3. Activity report from the Secretariat**

**Mr. Viaggi** insists on the need to send as soon as possible the position of EBC on public procurement to national governments as the Council will have the final say. The document may be customised. The secretariat will send it to the Permanent Representations, to MEPs and to the highest levels of the EC.

#### THE BOARD APPROVES THIS JOINT ACTION.

#### Posting of Workers directive

**Mr. Viaggi** explains that the Internal Market Committee (IMCO) of the EP voted by mid-February on an opinion from Danish MEP Emilie Turunen (Greens) on the posting of workers directive. The Employment Committee of the EP is in charge of the directive. The vote was against the very strict framework proposed by the rapporteur; the People's Party and the Liberals saw a hamper to free movement.

The vote suppressed article 12 on joint responsibility of enterprises and limited article 9 on national control measures to the list of measures proposed by the EC. Employer's associations were against article 12 and 9. UEAPME and EBC, unlike BusinessEurope, were in favour of an open list of measures to control fraud but it was otherwise as the majority within IMCO is right-wing and liberal. MEP Turunen deplored the vote and demanded her name to be removed from the opinion. The Employment Committee is a left-wing majority and should likely vote the position of the EP by the end of March. The Employment Committee might not consider the opinion of IMCO because of the internal split. Little is known on the Council internal negotiations, however we do know that there is no majority in favour of article 12.

He proposes the following as the Annual Congress theme: *how to combine internal market freedoms and fair competition?*

#### Elios 2

**Mrs. Franz** reminds that Elios 2 aims at improving the access of micro enterprises to insurance services in order to foster the use of environmental technologies.

In September 2012, EBC and CAPEB met the consortium of the project in order to raise doubts on the method of work. EBC shared the following reserves: an installation certified by a certified installer should not be seen as better than another because there is no correlation nor dependence link; a self-declaration following careful guidelines should have the same value than a declaration made by a third party; there should not be any prioritisation system of marks. EBC also mentioned the difficulties to create a European observatory of pathologies because of: the recent emergence of environmental technologies and their confidentiality; the non consideration of the "degradation of a product" but only of its pathology patterns; the difficulties to share or compare knowledge on environmental technologies from one country to another; and, above all, the absolute necessity to avoid the creation of a black list of construction products or installers.

EBC will meet ELIOS 2 team on the 10th June 2013.

**Mr. Condou** declares that CAPEB did not expect so little results and so many difficulties when the project was launched. He doubts the achievement of the project and the input brought to the relationship between SMEs and insurers.

#### EBC Communication strategy – links and interaction with members

**Mrs. Mazzagatti** introduces EBC new communication tools and encourages the reinforcement of the relationship between the secretariat and the EBC members at the national level.

**Mr. de Rose** asks if it is possible to write more documents in Italian.

**Mr. Viaggi** answers that the most important documents are always translated into Italian and Spanish. The Secretariat remains available for any punctual translation of a document of importance.

**Mr. Calvo Delgado** recalls that EBC rules state that papers must be translated into English and French, except of the Annual report and the newsletter which must also be translated into Italian and Spanish.

**Mr. Viaggi** wishes more interaction between the Secretariat and EBC members. He underlines how a small IT tool as Twitter may be interesting to share information very quickly.

**Mr. Liébus** says that CAPEB will add a direct link to EBC website on its website. He encourages the other delegates to do the same to reinforce the link between national organizations and EBC.

#### **Ecodesign for windows**

[Please see EBC Newsletter 1/2013 for more information]

**Mrs. Franz** says that the study has not started yet but that windows are in the priority list in the annex of the EC report for the improvement of energy efficiency. Energy marking seems currently more likely than windows eco-design. EBC will ask the EC when the study starts and who is going to be in charge of it.

#### **Social Dialogue representativeness study: update**

[Please see EBC Newsletter 1/2013 for more information]

**Mrs. Mazzagatti** shortlists the EBC members that have not been contacted yet by their national correspondent: AFNL, ANAEP, CNA Costruzioni, CNC, FDA, OZS, SDMSSES, UNPR and ZRP. She encourages them to contact spontaneously their national correspondent.

**Mr. Viaggi** points out that EBC secretariat is not responsible for this contact but that it is fundamental that every member answers the questionnaire.

**Mr. Marconi** suggests waiting a few more days as the national correspondents must contact EBC members.

**Mr. Bastianoni** asks if it would be possible that the secretariat contacts EuroFound regarding this topic.

**Mr. Viaggi** accepts Mr. Bastianoni's request and says that the Secretariat will contact EuroFound.

**Mr. Calvo Delgado** asks to be reported as the contact person for Spain.

### **4. EBC 2013 Annual Congress in Brussels**

#### **Decision on the topic**

**Mr. Viaggi** recalls that EBC Annual Congress will take place in Brussels, on the 27<sup>th</sup>-28<sup>th</sup> March 2013. The two-day programme contains the main events and the registration form contains the participation fees.

#### **Information on logistics, registration and participation fee**

[Please see the 2013 EBC Annual Congress two-day programme and the registration form for more information]

**Mr. Viaggi** reminds that the next board on the 27 June will take place in the EP, thanks to the invitation of Italian MEP Patrizia Toia, Vice President of the Committee on Industry, Research and Energy. The hotel will be the Marriott Renaissance. The conference on the 28<sup>th</sup> June will take place in the European Economic & Social Committee (EESC), thanks to the invitation of Mr. Klis (ZRP), member of the EESC. Thanks to Mr. Klis, EBC will not have expenses relating to facilities rental and interpretation services. The theme will be: *how to combine internal market freedoms and fair competition*. This theme is a highly charged political issue, reason why EBC members will have to avoid any protectionist trend.

**Mr. Calvo Delgado** declares that it will be a very important Congress to promote the image of EBC.

### **5. European projects**

#### **Intelligent Energy Europe 2013: possible EBC project**

[Please see EBC Newsletter 1/2013 for more information]



**Mrs. Franz** says that the secretariat is currently analysing the participation of EBC in a project within a consortium, even though not as a project manager. EBC members must contact the secretariat in order to assess a joint participation or to get information on interesting proposals.

**ICTs in construction SMEs: launch of a Commission-funded project**

[Please see EBC Newsletter 1/2013 for more information]

**Mr. Sigchos Jiménez** asks the delegates to provide EBC secretariat information on enterprises/groups of enterprises currently digitalising their activities, interested in ICTs and/or willing to share on ICTs. Mr. Viaggi will be a member of the group of experts settled by Capgemini.

**Mr. Viaggi** adds that any relevant national action may be a contribution as an example of good practices.

**Mr. de Rose** says that CNA is interested in this kind of projects. He asks if this method can be applied to SMEs at the national level.

**Mr. Viaggi** answers that BIM (Building Information Modelling) is a partner of the project and that this project is thus related to modelling.

**EuroApprenticeship: how to continue EBC's engagement in apprenticeship mobility**

[Please see EBC Newsletter 1/2013 for more information]

**Mrs. Mazzagatti** introduces the question of sustainability of EuroApprenticeship as EBC has fulfilled its duties towards the project. She reminds that EBC members must reply to the project barometer and suggest that they can add a link on their website and/or on their newsletter.

**6. Financial questions**

[Please see the financial documents for more information]

**Mr. Viaggi** reports EBC financial situation as at the 31<sup>st</sup> December 2013 and the 2013 contribution fees.

**7. Any other business**

**Mr. Sigchos Jiménez** introduces himself as new trainee of EBC, until June 2013.

**Mr. Calvo Delgado** adds that Mr. Sigchos Jiménez is mainly working on the organisation of the Congress.

**Mr. Liébus** reminds his proposal to hold a board during the international fair of building Batimat in Paris on the 7<sup>th</sup> November 2013. He asks the delegates to confirm their presence to proceed with the organisation of the event.

**THE PROPOSAL IS ACCEPTED.**

**Mr. Condou** asks the members to write a brief paper on their current national economic situation by next June. He also proposes that EBC secretariat gathers together these data into a document that will be sent to national governments in order to support every EBC member request.

**Mr. Calvo Delgado** thanks the translators and closes the meeting.