

New European public procurement contract lines – more attention for social and green award criteria, more emphasis on innovation and care for SME's, specific directive for concessions

On 15 January 2014 the European Parliament accepted the successors for the well-known directives 2004/17 (special sectors) and 2004/18 (conventional sectors). The vote in the European Parliament formed the capstone of the reform of the European legal framework that places the awarding of European public procurement contracts in a streamlined straitjacket. This reform was initiated by the European Commission on 20 December 2011 with proposals for new directives. These proposals were considered and debated over the course of slightly more than two years. After a series of presented arguments, on 15 January 2014 the European Parliament finally adopted the final text. Along with a renewal of the legal framework for awarding public procurement contracts in the conventional and special sectors, the European Parliament (for the first time) also provided a third directive which regulates the legal framework for awarding concessions of services. The main changes that the new directives strive for are, according to the European Parliament [1]:

- Contracting entities are encouraged, in choosing the award criteria, to pay greater attention to ones that relate to the environment, social aspects, innovation and so-called life-cycle costs
- A new award procedure is introduced, the so-called 'innovation partnership'. This award procedure must make it possible for a contracting authority and a chosen partner to search together for a new, innovative solution for a specific problem
- Existing award procedures are simplified
- In order to fight social dumping, the rules on sub-contracting and abnormally low prices are being made stricter
- Contracting entities are encouraged to divide up a public procurement contract as much as possible into parcels. This should ensure that the SME's continue to have access to the contract
- A completely new directive is being devoted to the granting of concessions

At present, the three directives have not yet been published in the Official Journal of the Europe Union. The three directives will enter into force 20 days after their publication. The Member States

then dispose of 24 months to transpose the directives into national legislation. For Belgium, this means concretely that the currently applicable legal framework for awarding public procurement contracts will have to be adapted to the new directives by – at the latest – the first half of 2016. Given that the (new) Belgian public procurement contract regulations only entered into force on 1 July 2013 and several Royal Decrees are still necessary for repairing this framework, it would appear that the current Belgian public procurement contract regulations are likely to be short-lived. ^[1]<http://www.europarl.europa.eu/news/en/news-room/content/20140110IPR32386/html/New-EU-procurement-rules-to-ensure-better-quality-and-value-for-money>

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