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BUNDESARBEITSKAMMER
Prinz-Eugen-Straße 20-22
1040 Wien

G.-Zl.: GLA-2024/194/CHSC/CHSC
Bei Antworten diese Geschäftszahl angeben.

Dr. Christian Schuster-Wolf, M.A. DW: 1157

Innsbruck, 27.01.2025

Betrifft: Sondierung und Konsultation zu den drei EU-Richtlinien über die Vergabe öffentlicher Aufträge

Bezug: Ihr Schreiben vom 16.12.2024
Zust. Referent:in: Susanne WIXFORTH

Werte Kolleginnen und Kollegen,

die Arbeiterkammer Tirol bedankt sich für die Möglichkeit, zum oben angeführten Gesetzesentwurf Stellung zu nehmen.

1. Zum Anlass und Hintergrund der Konsultation

Mit der vorliegenden Konsultation erhebt die Europäische Kommission Daten zu drei zentralen Rechtsakten betreffend die öffentliche Auftragsvergabe, konkret die Konzessions-Richtlinie 2014/23/EU, die Richtlinie über die Vergabe öffentlicher Aufträge 2014/24/EU und die Sektorenrichtlinie 2014/25/EU.

Gemäß den Materialien geben Behörden in der EU jährlich rund 14 % des BIP bzw. 2,4 Billionen EUR für die Beschaffung von Dienstleistungen und Waren aus, etwa in den Bereichen Energie, Verkehr, Abfallbewirtschaftung, Sozialschutz, Gesundheits- und Bildungsdienstleistungen. Einheitliche EU-Mindestvorschriften für öffentliche Aufträge sollen gleiche Wettbewerbsbedingungen für europäische Unternehmen schaffen.

Die Kommission verweist nun auf umfangreiche Daten, welche eine kritische Evaluierung und Überarbeitung dieser geltenden Regelungen nahelegen:

Zum einen wird der „Sonderbericht 28/2023 über das öffentliche Auftragswesen in der EU“ des Europäischen Rechnungshofs angeführt, mit welchem schwere Defizite im Wettbewerb attestiert werden. Dabei werden als die drei wichtigsten Indikatoren für den Wettbewerb „Verfahren mit nur einem Bieter“, „Direktvergaben“ und „Anzahl der Bieter“ aufgeschlüsselt. Die jüngste Reform der EU-Regelungen im Jahr 2014 hätte gemäß dem Bericht keine Verbesserung, sondern sogar eine weitere Verschlechterung zur Folge gehabt. Österreich sticht dabei im EU-weiten Vergleich besonders hervor (etwa mit einem Anteil bei Verfahren ohne Ausschreibung von über 30 Prozent, bei Vergabeverfahren mit nur einem Bieter von über 40 Prozent). Auf den Sonderbericht des Europäischen Rechnungshofs beziehen sich die kritischen Schlussfolgerungen des Rates C/2024/35212.

Zum anderen verweist die Kommission auf die prominenten Berichte von Enrico Letta („Much more than a Market – Speed, Security, Solidarity – Empowering the Single Market to deliver a sustainable future and prosperity for all EU Citizens“, April 2024) und von Mario Draghi („The future of European competitiveness“, September 2024), in welchen auch das öffentliche Auftragswesen als wichtiges Instrument zum Erreichen der Ziele der EU angeführt wird.

In diesem Sinne wurde in den politischen Leitlinien für die Europäische Kommission 2024-2029 eine Überarbeitung dieser Richtlinien über die öffentliche Auftragsvergabe angekündigt. Das Ziel soll darin bestehen, europäischen Produkten bei der Vergabe öffentlicher Aufträge in bestimmten strategischen Sektoren den Vorzug zu geben, in der EU den Mehrwert und die Versorgungssicherheit in Bezug auf wesentliche Technologien, Produkte und Dienstleistungen zu gewährleisten und die Vorschriften für die öffentliche Auftragsvergabe insbesondere mit Blick auf Start-ups und Innovatoren zu verbessern sowie die globale Wettbewerbsfähigkeit der EU zu stärken. In demselben Sinne wird auch auf die Stellungnahme des Europäischen Wirtschafts- und Sozialausschusses („The potential of Public Procurement for Social Economy enterprises“) verwiesen.

Die Europäische Kommission will der nun vorzunehmenden Bewertung eine eingehende Analyse des Wettbewerbs auf dem EU-Markt für öffentliche Aufträge zugrunde legen, die im Detail die Kriterien Wirksamkeit, Effizienz, Relevanz, Kohärenz und EU-Mehrwert der drei Richtlinien aufschlüsselt.

Die in den genannten Studien umfassend aufbereiteten Daten zur Europäischen Wirtschafts- und Wettbewerbsentwicklung, die angestellten Überlegungen zu einer Verbesserung der begründet befundenen Probleme sowie die Schlussfolgerungen hinsichtlich der Notwendigkeit zur Reaktion auf europäischer Ebene, zunächst durch eine Reform des rechtlichen Rahmens, werden zur Kenntnis genommen.

2. Anmerkungen hinsichtlich einer Überarbeitung des rechtlichen Rahmens

In der Beilage übermitteln wir den Fragebogen der vorliegenden Konsultation. Soweit keine unmittelbaren Erfahrungen vorliegen stellen die getroffenen Antworten abgewogene Einschätzungen unter Zugrundelegung u.a. der oben genannten Studien dar. Im Kontext ist aber anzumerken, dass einige der in der Konsultation enthaltenen Fragen, etwa hinsichtlich der Gefahr von Korruption in Vergabeverfahren, sehr direkt auf diese Studien zu reflektieren scheinen anstatt tatsächlich unmittelbare Erfahrungen abzufragen.

Es ist festzuhalten, dass sich die genannten Richtlinien auf europaweite Ausschreibungen beziehen, deren Auftragsvolumina oberhalb der jeweiligen Schwellenwerte liegen (in den jeweiligen Zusammenhängen gemäß Art 8 RL 2014/23/EU in der Höhe von 5.186.000 Euro, gemäß Art 4 RL 2014/24/EU in der Höhe von 5.186.000 / 134.000 / 207.000 / 750.000 Euro, gemäß Art 15 RL 2014/25/EU in der Höhe von 414.000 / 5.186.000 / 1.000.000 Euro) und auf Szenarien, in denen im gegebenen Rahmen keine rein nationalen bzw. regionalen Ausschreibungen möglich sind. Die genannten Studien haben daher eingeschränkt Gültigkeit für die absolute Gesamtzahl der nationalen und europaweiten Vergabeverfahren. Im Kontext wären in diesem Sinn für die nationale Ebene also auch die österreichische Rechtslage (Bundesvergabegesetz 2018, Schwellenwerteverordnung 2023, u.a.) sowie kritische Stellungnahmen des österreichischen Rechnungshofes zu berücksichtigen. Unklar ist aufgrund der vorliegenden Konsultationsmaterialien, wie - breit oder eng - der tatsächliche Fokus der Europäischen Kommission hier ausgerichtet ist. Aufgrund dieser Umstände, wie auch der eingeschränkten Möglichkeiten zur Stellungnahme im Rahmen der konkreten Multiple-Choice-Fragestellungen, ersuchen wir ergänzend um Berücksichtigung folgender grundsätzlicher Überlegungen zu öffentlichen Vergabeverfahren im Rahmen der Stellungnahme:

Im Rahmen von Ausschreibungen ist der - bloße - Angebotspreis zweifellos ein wesentlicher Aspekt, es sollen aber darüber hinausgehend stets auch andere relevante Faktoren berücksichtigt werden können. Das Ziel soll darin bestehen,

insgesamt eine realitätsnahe und umfassende Kosten-Nutzen-Relation sowie Risikoeinschätzung darstellen zu können. Hierzu zählen etwa folgende Punkte:

- Erfahrungswerte der Vergangenheit und realitätsnahe Risikoeinschätzungen hinsichtlich der Gefahr von Kostenüberschreitungen
- Aufmerksamkeit hinsichtlich „zweifelhafter“ Unternehmenskonstrukte zur Erschwerung der rechtlichen Handhabe in allfälligen Haftungsfällen bei Gewährleistung und Schadenersatz
- Aufmerksamkeit hinsichtlich sozial- und arbeitsrechtlich erfahrungsgemäß „kritischer“ Konstrukte, die mit Hindernissen bei der Durchsetzbarkeit von allfälligen Ansprüchen einhergehen
- Aufmerksamkeit hinsichtlich der erwartbaren Zuverlässigkeit von Unternehmen in Bezug auf Erreichbarkeit für Reklamationen, Problembehandlung und Verfügbarkeit von Serviceleistungen
- Insgesamt strenge Plausibilitätsprüfungen und Gewichtung belastbarer, erwartbar zuverlässiger und nachhaltiger Leistungszusagen
- Insgesamt eine Berücksichtigung von Risiken, die nicht nachhaltige Verläufe begünstigen
- Fragen der Wertschöpfung

In einer negativen Abgrenzung darf eine Reform des EU-Rechts an dieser Stelle nicht dazu führen, dass im obigen Sinne ausgewogene, berechenbare und nachhaltige Entscheidungen in Ausschreibungsverfahren erschwert würden, indem eine zu hohe Gewichtung hinsichtlich des reinen Angebotspreises unter Vernachlässigung anderer wichtiger Faktoren vorgenommen werden müsste.

Diesen Überlegungen liegen Erfahrungswerte bezüglich erheblichen Kostenüberschreitungen, Insolvenzen, Zusatzkosten durch nicht oder mangelhaft ausgeführte Leistungen, Schwierigkeiten bei der Durchsetzung von Gewährleistungs-, Schadenersatzansprüchen sowie bei der Durchsetzung arbeits- und sozialrechtlicher Forderungen der Arbeitnehmer am Gerichts- bzw. Exekutionsweg zugrunde. Es muss dahingehend ein Bewusstsein bestehen, dass sich derartige Problemfälle im Rahmen öffentlicher Aufträge in der Regel zu Lasten der Steuerzahler auswirken. In diesem Sinne ist eine ausgewogene und realitätsnahe Reform des Vergaberechts einzufordern.

Der beiliegende ausgefüllte Fragebogen zur Konsultation ist nur für die Bundesarbeitskammer bestimmt.

Wir ersuchen höflich, unsere Argumente in der Stellungnahme der Bundesarbeitskammer zu berücksichtigen und verbleiben

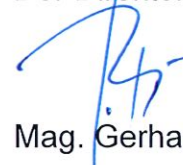
mit kollegialen Grüßen

Der Präsident:



Erwin Zangerl

Der Direktor:



Mag. Gerhard Pirchner

Beilage: Konsultation

Evaluation of public procurement directives

Fields marked with * are mandatory.

Introduction

This public consultation forms an integral part of the **evaluation of the EU public procurement directives**:

- Directive 2014/23/EU on the award of concession contracts
- Directive 2014/24/EU on public procurement
- Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors).

The **objectives of the directives** have been to ensure an efficient use of public funds, contribute to the high level of competition in the single market, and promote transparency and integrity of public spending. The directives were also expected to contribute to making Europe a more green, social and innovative economy, increase SMEs' participation in procurement procedures, reduce the administrative burden related to procurement procedures, simplify them and make more flexible.

The purpose of this evaluation is to collect information that allows the Commission to assess the EU procurement markets and understand:

- the effectiveness and coherence of the EU legal framework for public procurement
- whether this legal framework is still adequate in the current context.

The directives have been **transposed into national law**. Feedback on national legislation that does not transpose the directives is outside of this consultation's scope.

The results of this public consultation will be summarised in a factual report, which will be published on the Have Your Say website. The results will also be analysed together with other data and presented in the Commission's report on the evaluation of the public procurement directives and an accompanying staff working document.

This consultation is composed of five themes. You will be able to provide additional **free text comments** concerning each of them. At the end of the survey you can upload a file with a more detailed contribution, including any **evidence** you may have.

About You

*Language of my contribution

- Bulgarian
- Croatian

- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

*I am giving my contribution as

- Academic/research institution
- Business association
- Company/business
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

* First name

Christian

* Surname

Schuster-Wolf

* Email (this won't be published)

grundlagenarbeit@ak-tirol.com

* Scope

- International
- Local
- National
- Regional

* Level of governance

- Local Authority
- Local Agency

* Level of governance

- Parliament
- Authority
- Agency

* Organisation name

255 character(s) maximum

Arbeiterkammer Tirol

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

Check if your organisation is on the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making.

* Country of origin

Please add your country of origin, or that of your organisation.

This list does not represent the official position of the European institutions with regard to the legal status or policy of the entities mentioned. It is a harmonisation of often divergent lists and practices.

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| <input type="radio"/> Åland Islands | <input type="radio"/> Dominica | <input type="radio"/> Liechtenstein | <input type="radio"/> Saint Pierre and Miquelon |
| <input type="radio"/> Albania | <input type="radio"/> Dominican Republic | <input type="radio"/> Lithuania | <input type="radio"/> Saint Vincent and the Grenadines |
| <input type="radio"/> Algeria | <input type="radio"/> Ecuador | <input type="radio"/> Luxembourg | <input type="radio"/> Samoa |
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| <input type="radio"/> Andorra | <input type="radio"/> El Salvador | <input type="radio"/> Madagascar | <input type="radio"/> São Tomé and Príncipe |
| <input type="radio"/> Angola | <input type="radio"/> Equatorial Guinea | <input type="radio"/> Malawi | <input type="radio"/> Saudi Arabia |
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| <input type="radio"/> Antarctica | <input type="radio"/> Estonia | <input type="radio"/> Maldives | <input type="radio"/> Serbia |
| <input type="radio"/> Antigua and Barbuda | <input type="radio"/> Eswatini | <input type="radio"/> Mali | <input type="radio"/> Seychelles |
| <input type="radio"/> Argentina | <input type="radio"/> Ethiopia | <input type="radio"/> Malta | <input type="radio"/> Sierra Leone |
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| <input type="radio"/> Australia | <input type="radio"/> Fiji | <input type="radio"/> Mauritania | <input type="radio"/> Slovakia |
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| <input type="radio"/> Bangladesh | <input type="radio"/> French Southern and Antarctic Lands | <input type="radio"/> Moldova | <input type="radio"/> South Georgia and the South Sandwich Islands |
| <input type="radio"/> Barbados | <input type="radio"/> Gabon | <input type="radio"/> Monaco | <input type="radio"/> South Korea |

- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
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- Georgia
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- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
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- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar/Burma
- Namibia
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
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- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
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- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland
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- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Türkiye
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
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| <input type="radio"/> Chad | <input type="radio"/> Ireland | <input type="radio"/> Palestine | <input type="radio"/> Uganda |
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| <input type="radio"/> Christmas Island | <input type="radio"/> Italy | <input type="radio"/> Paraguay | <input type="radio"/> United Kingdom |
| <input type="radio"/> Clipperton | <input type="radio"/> Jamaica | <input type="radio"/> Peru | <input type="radio"/> United States |
| <input type="radio"/> Cocos (Keeling) Islands | <input type="radio"/> Japan | <input type="radio"/> Philippines | <input type="radio"/> United States Minor Outlying Islands |
| <input type="radio"/> Colombia | <input type="radio"/> Jersey | <input type="radio"/> Pitcairn Islands | <input type="radio"/> Uruguay |
| <input type="radio"/> Comoros | <input type="radio"/> Jordan | <input type="radio"/> Poland | <input type="radio"/> US Virgin Islands |
| <input type="radio"/> Congo | <input type="radio"/> Kazakhstan | <input type="radio"/> Portugal | <input type="radio"/> Uzbekistan |
| <input type="radio"/> Cook Islands | <input type="radio"/> Kenya | <input type="radio"/> Puerto Rico | <input type="radio"/> Vanuatu |
| <input type="radio"/> Costa Rica | <input type="radio"/> Kiribati | <input type="radio"/> Qatar | <input type="radio"/> Vatican City |
| <input type="radio"/> Côte d'Ivoire | <input type="radio"/> Kosovo | <input type="radio"/> Réunion | <input type="radio"/> Venezuela |
| <input type="radio"/> Croatia | <input type="radio"/> Kuwait | <input type="radio"/> Romania | <input type="radio"/> Vietnam |
| <input type="radio"/> Cuba | <input type="radio"/> Kyrgyzstan | <input type="radio"/> Russia | <input type="radio"/> Wallis and Futuna |
| <input type="radio"/> Curaçao | <input type="radio"/> Laos | <input type="radio"/> Rwanda | <input type="radio"/> Western Sahara |
| <input type="radio"/> Cyprus | <input type="radio"/> Latvia | <input type="radio"/> Saint Barthélemy | <input type="radio"/> Yemen |
| <input type="radio"/> Czechia | <input type="radio"/> Lebanon | <input type="radio"/> Saint Helena, Ascension and Tristan da Cunha | <input type="radio"/> Zambia |
| <input type="radio"/> Democratic Republic of the Congo | <input type="radio"/> Lesotho | <input type="radio"/> Saint Kitts and Nevis | <input type="radio"/> Zimbabwe |
| <input type="radio"/> Denmark | <input type="radio"/> Liberia | <input type="radio"/> Saint Lucia | |

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, 'business association', 'consumer association', 'EU citizen') country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

The type of respondent that you responded to this consultation as, your country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself.

Public

Your name, the type of respondent that you responded to this consultation as, your country of origin and your contribution will be published.

*** Contribution publication privacy settings**

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

Anonymous

Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.

Public

Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

I agree with the personal data protection provisions

Experience with EU public procurement

* Have you or your organisation bid for public contracts in the last 8 years?

- Yes
 No

* Has your organization been carrying out public procurement procedures in the last 8 years?

- Yes
- No

* Please select the type of public procurement that you have been involved in **most frequently**:

- Works or concession contracts worth roughly more than €5.5 million each
- Supply or service contracts with public authorities worth roughly more than €140 000 each
- Supply or service contracts in the water, energy or transport sectors worth roughly more than €440 000 each
- Contracts with a lower value than mentioned above

Section 1: Simpler, more flexible rules, value for money, transparency, integrity

Have the directives reached their objectives?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	Don't know
The directives helped contracting authorities* get better value for money when procuring works, goods and services.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives made the scope of the applicable rules clearer .	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives provided sufficient flexibility in the public procurement system (e.g. a broader choice of procedures and procurement techniques).	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The digitalisation of public procurement (eProcurement) helped lower the administrative burden when procuring works, goods and services.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The digitalisation of public procurement (eProcurement) made it faster to procure works, goods and services.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

The directives set out simpler rules for the EU public procurement system.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives helped reduce corruption and fend off political pressure in public procurement procedures.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The directives fostered a culture of integrity and fair play in public procurement.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The directives increased the professionalisation of public buyers.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The directives increased transparency by setting the proper framework for the publication of tenders at all stages of the public procurement procedure.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The directives gave greater legal certainty on the compliance with procurement procedures.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The directives facilitated prompt payments to subcontractors for the works, goods and services offered.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

* Throughout this survey the term "contracting authorities" is understood as contracting authorities and entities.

The directives' objectives were to be achieved through rules set out in these legal acts.

In this context, do you agree with the following statements?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	Don't know
The directives' rules aiming at procedural simplification (e.g. eProcurement, European single procurement document 'ESPD', the use of self-declarations) are still relevant and adequate.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives' rules aiming to increase procedural flexibility (e.g. the choice of available procedures, time limits for	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

submitting offers, contract modifications) are still relevant and adequate.						
The directives' rules on transparency (e.g. EU-wide publication via Tenders Electronic Daily 'TED') are still relevant and adequate.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives' rules on monitoring (e.g. the quality of data provided in TED) are still relevant and adequate.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives' rules on integrity (e.g. exclusion grounds, conflict of interest rules) are still relevant and adequate.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If you have comments concerning any of the statements above, please provide them here.

Access to the EU public procurement market

Section 2: Easier market access, SMEs and cross-border participation

Have the directives reached their objectives?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	Don't know
The directives resulted in more competition in public procurement markets (e.g. rules on transparency make it easier for companies to enter markets).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
The directives set out rules that ensure the equal treatment of bidders from other EU countries in all stages of the process and the objective evaluation of tenders.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

The directives made it easier for SMEs to bid for public contracts (e.g. the possibility to divide tenders into lots).	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives made it easier to bid on public contracts from abroad (e.g. through eProcurement).	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

The directives' objectives were to be achieved through rules set out in these legal acts.

In this context, do you agree with the following statements?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	Don't know
The directives' rules on SMEs' market access are still relevant and adequate.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives' rules on eProcurement are still relevant and adequate as a tool to facilitate market access .	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives' rules on market access of companies from other EU countries are still relevant and adequate.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives' rules on market access of companies from non-EU countries are still relevant and adequate.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives' rules on public-public cooperation and in-house procurement are still relevant and adequate.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If you have comments concerning any of the statements above, please provide them here.

Strategic public procurement

Section 3: Addressing strategic challenges

Have the directives reached their objectives?

Impact on contracting authorities

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	Don't know
The directives encouraged contracting authorities to buy environmentally friendly works, goods and services.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives encouraged contracting authorities to buy socially responsible works, goods and services.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives encouraged contracting authorities to buy innovative works, goods and services.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Impact on suppliers

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	Don't know
The directives encouraged companies to make greater efforts in meeting environmental standards in their economic activities.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives encouraged companies to consider social aspects more in their economic activities.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives encouraged companies to make wider use of innovative solutions in their economic activities.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

The directives' objectives were to be achieved through rules set out in these legal acts.

In this context, do you agree with the following statements?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	Don't know
The directives' rules that aim for environmentally friendly						

procurement (e.g. quality assurance standards and environmental management standards) are still relevant and adequate.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives' rules that aim for socially responsible procurement (e.g. reserved contracts, requirements on accessibility for people with disabilities and design for all users) are still relevant and adequate.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives' rules on supporting innovation (e.g. innovation partnership, competitive dialogue) are still relevant and adequate.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives' rules on supporting all types of strategic procurement (e.g. the use of the most economically advantageous tender) are still relevant and adequate.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives' rules on the transfer of intellectual property rights to enable public procurement to drive innovation are still relevant and adequate.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

If you have comments concerning any of the statements above, please provide them here.

Competition in the EU public procurement market

Section 4: Competition

	Too high	Adequate	Too low	No opinion
The level of competition in the EU public procurement market is ...	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
The frequency of single bidding (awarding a contract after only receiving one offer) is ...	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

The frequency of direct awards (negotiated procedure without publication of a contract notice) is	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The frequency of awards based on price only (as different from the most economically advantageous awards) is ...	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Do you agree with either of these statements about the **high frequency of single bidding**?

- It is a sign of bad procurement practices.
- It is not linked to procurement practices, but due to market structure or other factors unrelated to procurement.
- I don't agree with either of the statements above

Do you agree with either of these statements about the **high frequency of direct awards**?

- It is a sign of bad procurement practices.
- It is a legitimate procurement practice under certain circumstances and may facilitate the flexibility and timeliness of procedures.
- I don't agree with either of the statements above.

Do you agree with either of these statements about the **high frequency of price only awards**?

- It is a sign of bad procurement practices.
- It may be more efficient in certain circumstances (e.g. a simpler and faster way to buy homogenous goods).
- High quality can be assured through technical requirements.
- I don't agree with either of the statements above.

Over the last 8 years, the level of competition in the EU public procurement market has...

- increased
- remained the same
- decreased
- No opinion.

Feel free to comment on issues that you may have experienced with the level of competition in EU public procurement market.

Coherence and resilience of the EU public procurement framework

Section 5: Coherence

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	Don't know
The three public procurement directives* are coherent with each other.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The objectives of the three public procurement directives are coherent with each other.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
EU public procurement legislation on defence and security procurement is coherent with the three public procurement directives.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
EU public procurement legislation on remedies is coherent with the three public procurement directives.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
EU legislation relating to public procurement (e.g. sectorial rules such as the Net-Zero Industry Act or Clean Vehicles Directive) is coherent with the three public procurement directives.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives led to a more consistent application of public procurement policy across EU countries .	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

* Directive 2014/23/EU on the award of concession contracts, Directive 2014/24/EU on public procurement, Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors.

If you have comments concerning any of the statements above, please provide them here.

As indicated by the current studies.

Section 6: Resilience

Are the directives still relevant and adequate given the changing circumstances?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	Don't know
The directives are fit for purpose to contribute to the EU's strategic autonomy* (including the security of EU supply chains).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives are fit for purpose in urgent situations , allowing contracting authorities to procure works, goods and services in a timely manner and even make purchases more quickly when necessary.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives are fit for purpose if there are major supply shortages (e.g. supply-chain disruptions during a health, energy or security crisis).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
The directives are fit for purpose to ensure that security considerations are properly addressed by the contracting authorities.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

* EU strategic autonomy refers to the capacity of the EU to act autonomously. That means not being dependent on other countries in strategically important policy areas.

If you have comments concerning any of the statements above, please provide them here.

As indicated by the current studies.

Comparisons

Section 7: Below EU thresholds procurement

When compared with procurement **below EU thresholds***, carrying out transactions under the directives' rules is ...

	Always	Very often	Sometimes	Rarely	Never	I don't know
simpler	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

better value for money	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
faster	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
more transparent and fair	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
more professional	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
subject to more competition	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
more environmentally friendly	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
more socially responsible	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
more supportive for innovation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
better in preventing corruption	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

* Thresholds are as follows (approximately): (i) works or concession contracts worth more than €5.5 million; (ii) supply or service contracts with public authorities worth more than €140 000; and (iii) supply or service contracts in the water, energy or transport sectors worth more than €440 000.

Section 8: Private procurement

When compared with **private procurement**, selling under the directives' rules is

...

	Always	Very often	Sometimes	Rarely	Never	I don't know
simpler	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
better value for money	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
faster	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
more transparent and fair	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
more professional	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
subject to more competition	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
more environmentally friendly	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
more socially responsible	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
more supportive for innovation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
better in preventing corruption	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Thank you for your contribution. Please feel free to provide further comments or attach a file summarising your position on the directives' evaluation.

Please upload your file(s)

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed