

EU procurement legislation Importance for the European neighbourhood

Olivier Moreau
Desk officer
DG MARKT/Unit C1

European Commission 
Internal Market & Services DG

- EU procurement legislation: past, present, future
- Importance for the Neighbors
- Creating a compliant procurement system
- How can the Commission help?

EU procurement legislation: past

- Global objective: opening up of the Internal Market through coordination of national procurement rules and practices
- Beginnings: 1969 (practices outlawed by the Treaty)
- First legislative coordination: 1970's (works, supplies)
 - Limited number of obligations on competition, transparency
 - Limited scope
- Completion of the legislative framework: 1989-1993
 - Priority of the internal market policy (1985 White Paper)
 - Amendments, new directives (services, utilities, remedies)
 - Consolidation: 1993 (works, services, supplies)
 - Detailed rules (scope, specifications, advertising, procedures, selection and award criteria, review)

EU procurement legislation: present

- 2004 directives (transposition deadline: 31 January 2006)
- Objectives:
 - Reflect structural and technological progress of procurement practices
 - Provide a framework for modernisation
 - Improve comprehensiveness
- New concepts:
 - Use of electronic means, electronic auctions, dynamic purchasing systems
 - Framework agreements (2004/18)
 - Central purchasing bodies
 - Competitive dialogue (2004/18)
 - Integration of environmental and social aspects

EU procurement legislation: future

- Remedies: Revision of the directives on review procedures
- Public-Private Partnerships:
 - Interpretative communication on institutionalised PPPs
 - Assessment of a legislative initiative on concessions
- Electronic Public Procurement: Realisation of the 2004 Action Plan
- Defence procurement:
 - Interpretative communication on Article 296 of the EC Treaty
 - Assessment of a directive on defence procurement

Importance for Our Neighbors

- Barcelona Process: the establishment of a Euro-Mediterranean Free Trade Area (EMFTA) by the target date of 2010, set to become the world's biggest marketplace
- Euro Mediterranean Association Agreements:
 - "The Parties shall set as their objective a reciprocal and gradual liberalisation of public procurement contracts"
 - Access to procurement markets not envisaged (may be considered under the IFI's or donors procurement procedure rules)
- In the interest of the countries:
 - Guaranteeing best value for money
 - Paving the way for the modernisation of the procurement system

Creating a compliant procurement system

- Key elements:
 - Renewal/enactment of primary legislation in the field of public procurement (public contracts, concessions, status of the utilities...)
 - Systematic publication of tender notices
 - Adoption/adjustment of secondary acts
 - Provision of operational tools (guidelines, sample contracts)
 - Development of administrative capacities ("headquarters", review bodies, main purchasers)
- Our experiences in the context of Enlargement:
 - Main risks: lack of continuity, coherence and comprehensiveness, application and enforcement problems, last-minute reforms
 - Importance of a global strategy covering all aspects of public expenditure management at an early stage

How can the Commission help?

- Economic and Financial Assistance: the MEDA programme
- Assistance by DG Internal Market and Services (Unit C1: Economic and International Dimension of Public Procurement Policy; e-procurement):
 - Assistance in the interpretation of the EU procurement legislation,
 - Organisation of bilateral expert meetings,
 - Contribution to seminars and conferences,
 - Support for the elaboration of national strategies,
 - Help in the targeting of external assistance.
- Contact:
 - For Euromed area & negotiations in UNCITRAL: olivier.moreau@ec.europa.eu
 - European Neighbourhood Policy in other areas: nora.tosics@ec.europa.eu
 - Negotiations in WTO (Government Procurement Act):
diane.de-marliave@ec.europa.eu AND elies.messaoudi@ec.europa.eu
- Documentation available on: www.simap.eu.int