

EUROPEAN ECONOMIC AREA

FORUM OF ELECTED REPRESENTATIVES OF LOCAL AND REGIONAL AUTHORITIES

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26th MEETING OF THE EEA EFTA FORUM

Brussels, 28–29 November 2024

Opinion on the Planned Evaluation and Potential Revision of the Directives on Public Procurement

Rapporteur: Ståle Grøtte

The EEA EFTA Forum of Local and Regional Authorities

- A. Noting that the Political Guidelines for the European Commission 2024–2029 include potential plans to revise the Public Procurement Directives;
- B. Acknowledging the role of the EEA EFTA Forum as a body in the EFTA structure as stipulated in Decision of the Standing Committee of the EFTA States No 10/2009/SC establishing a Forum of Elected Representatives of Local and Regional Authorities of the EEA EFTA States;
 - 1. Welcomes the initiative to investigate the root causes of lack of competition in public procurement, as demonstrated by the fact that over the period 2011–2021 fewer than 5% of contracts were awarded to companies located abroad;
 - 2. Recalls that the main objective of the Public Procurement Directives was to create competition and ensure transparency and equal treatment between suppliers, and underlines that a revision of the directives represents an opportunity to simplify the rules, enabling public authorities to focus on the core objectives of their purchase;
 - 3. Emphasises that public procurement should be an economic rather than a legal

exercise, but that the complexity of the current legislation has made it more of the latter, which imposes a burden on municipalities' budgets;

4. Encourages a reduction in the administrative burdens and disproportionate costs involved with small contracts by raising the thresholds in line with the Commission's approach to state aid cases: "big on big and small on small";
5. Points to the need to clarify which services should fall outside the scope of the directives, as well as what constitutes an economic activity and thus falls within the directives, and underlines the importance of public services as such being exempted from the Public Procurement Directives;
6. Stresses the need to simplify the exemptions for public–public cooperation to allow municipalities to cooperate with neighbouring municipalities in a more cost-efficient manner;
7. Highlights that the public procurement process has become too complex, demonstrated by the fact that bidders are scared off by the lengthy procedures and costs involved, while contracting authorities spend more public money on these procedures, partly due to the need for external legal expertise;
8. Believes that a revision of the directives should make processes simpler and procurement rules less fragmented, with fewer types of procedures;
9. Agrees with the value of green, social and innovative criteria in public procurement, but emphasises that these criteria should be voluntary and based on the political decisions of the public buyer, as applying them in a mandatory manner can make procedures prone to errors and legal challenges, as well as disproportionately costly;
10. Believes that such a voluntary approach is in accordance with local self-government and autonomy, as enshrined in the Council of Europe's Charter on Local Self-

Government and the Treaty on European Union Article 4 (2);

11. Asks that public procurement legislation addresses the need for public authorities to ensure local, regional and national preparedness and emergency planning under the framework of the total defence concept.
