

MAKING PUBLIC PROCUREMENT AS AN INSTRUMENT FOR DEVELOPMENT RATHER THAN AN ADDITIONAL WEB OF BUREAUCRACIES!

RECOMMENDATION Nº 1:

a) Keeping the special regime approved by the Portuguese Government since 13 March 2020 until the end of the transition period , probably due to July 2020 (this special regime includes a simplified process to use the public budget and to award contracts for the acquisition of goods and services to fight COVID19 as well as an extension of the limits of contract value allowing the adoption of the invitation procedures);

b) Establishment of a special regime of public procurement valid for all sectors and valid during the recovery period (probably, until 2022) aiming to make full use of public acquisitions to mitigate lack of demand and to attractive private investments.

Such recovery regime should respect the following 9 guidelines.

RECOMMENDATION Nº 2:

a) Anticipated planning, rationalization and centralization of public acquisitions is critical, and the improvement of central purchasing bodies should be accomplished if required.

b) Public contracting authorities should prepare their annual plan of procurement which should be consistent to their annual budget.

RECOMMENDATION Nº 3:

a) Priority should be given to E-Procurement and the Portuguese legal regime of electronic signatures and time stamps should be simplified as it is one of the most demanding regimes.

b) The use of mandatory e-platforms should be extended to invitation procedures sent to more than one competitor.

RECOMMENDATION Nº 4:

The award criteria should respect the guidelines of the European Directives approved on 2014 and following the so called “ Most Economically Advantageous Tender-MEAT” which is based on a compensatory balance between quality and cost attributes of each bid so that sustainability, innovation and post -sale support can be fully considered. This approach will be a key instrument to help and to qualify Portuguese SMEs

RECOMMENDATION Nº 5:

Introducing a new regime to introduce contract changes during their execution to facilitate such processes and avoiding too rigid Portuguese regime. The value thresholds for the introduction of changes should be augmented to the EU limits and a mediation and arbitration process should be designed and implemented avoiding the saturation of State courts due to too high litigation which will be also a factor of demand mitigation rather than of demand stimulation.

RECOMMENDATION Nº 6:

Promotion of national programs of interdisciplinary training of public procurers assigning top priority to the allocation of European Social Fund to support these programs. The professional career of public procurer should be established for civil service. This recommendation follows the EU “Commission Recommendation (EU) 2017/1805 of 3 October 2017 on the professionalisation of public procurement — Building an architecture for the professionalisation of public procurement”

RECOMMENDATION Nº 7:

Review of the national plan of public investments considering the new needs and the acceleration of the digital transition without reduction of the percentage of the GDP assigned to public investment which has been notoriously low since the last crisis started on 2009.

RECOMMENDATION Nº 8:

Promotion of innovation and support of SMEs through public procurement initiatives specially oriented to fulfil the new social and economic needs and respecting diversified targets

RECOMMENDATION Nº 9:

Review of the existing legal framework about concessions as it has not yet applied the new degrees of freedom introduced by the EU Directives of 2014 . All the potential of concessions should be used to attract private investment to meet national and public needs

RECOMMENDATION Nº 10:

The national Regulator of Public Markets (IMPIC, www.impic.pt), should monitor the implementation of the new regime of public procurement, to evaluate the outcomes and to propose the most appropriate changes.

APMEP; TAGUS PARK, IST, UNIVERSITY OF LISBON, 21 April 2020.

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