



EUROPEAN COMMISSION

Thierry Breton
Member of the Commission

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GROW.C.2/AL

Oliver Roethig
Regional Secretary UNI Europa
The European Services Workers Union
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Dear Mr Roethig,

Thank you for your letter of December 5, 2022, in which you call on the Commission to amend the EU public procurement legal framework in order to ensure that public buyers award public contracts only to those companies, which implement collective agreements, a proposal supported by 150 MEPs.

Member States are free to determine the role collective agreements play in their national labour law system. Work relations during the performance of a public procurement contract are not different than those based on a private transaction: employers are bound by the same labour law framework and obligations when they are operating as public contractors and subcontractors. The EU legal framework on public procurement recognises this principle and requires EU Member States and public buyers to ensure compliance with all applicable labour obligations during the performance of the contract, whether these are stemming from the law, administrative provisions or collective agreements, in line with EU Law¹. When the applicable labour obligations are stemming from collective agreements in line with the EU acquis, economic operators must comply with them in the context of a public contract or concession.

In this context, breaches of a collective agreement can have serious consequences on the procedure to award the public contract and during the execution of the contract. These include: the exclusion of economic operators who are in breach of the rules set in a collective agreement ⁽²⁾; the exclusion of offers with an abnormally low financial value due to the breach of such labour obligations ⁽³⁾; binding contract terms to ensure effective enforcement of applicable collective agreements ⁽⁴⁾.

⁽¹⁾ See Article 18(2) of Directive 2014/24/EU

⁽²⁾ See Article 57(4)(a) of Directive 2014/24/EU

⁽³⁾ Art 69(2) and (3) of Directive 2014/24/EU

⁽⁴⁾ Recitals 37 and 97 of Directive 2014/24/EU

The Commission's "Buying Social" guide ⁽⁵⁾, was published in May 2021 precisely to provide public buyers with clear and concrete indications on this kind of issues, and to encourage them to make their procurements socially responsible and compliant with labour law.

The recently adopted Directive on Adequate Minimum Wages builds on this framework, by further clarifying that public contractors and their subcontractors must comply with the right to organise and collective bargaining on wage-setting ⁽⁶⁾.

There are therefore currently no plans to amend the directives on public procurement. We believe EU workers can count on a solid labour law and public procurement legal framework. The Commission will continue to carefully monitor their application in the Member States to ensure their correct enforcement as announced in the Communication "The Single Market at 30" ⁽⁷⁾. The newly launched Public Procurement Data Space (PPDS)⁽⁸⁾ will also facilitate this task by increasing the transparency and accountability of public spending. The PPDS will connect the EU TED database with the national procurement data sets and national procurement portals, allowing for a more data driven-policy on procurement both at EU and at national level.

At the same time, the Commission's services continue to promote a change of culture and practice in EU public administrations. The Commission services are about to launch and finance a project whereby two working groups of contracting authorities will work together to address social aspects of their own procurements. The goal of this initiative, called Big Buyers is to allow buyers to build better collective understanding of the social, labour and ethical impact of public contracts and how to address it, as well as the influence of their procurement practices on economic operators and the market.



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⁽⁵⁾ [Buying Social – A guide to taking account of social considerations in public procurement – Second edition \(2021/C 237/01\)](#)

⁽⁶⁾ Article 9 of Directive (EU) 2022/2041

⁽⁷⁾ Communication of 16 March 2023 from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "The Single Market at 30" – COM(2023) 162 final.

⁽⁸⁾ Communication from the Commission of 16 March 2023 – "Public Procurement: A data space to improve public spending, boost data-driven policy-making and improve access to tenders for SMEs" - C/2023/1696.