



Council of the  
European Union

Brussels, 11 November 2021  
(OR. en)

13797/21

MAP 32  
MI 828  
COMPET 800  
IND 337  
CFSP/PESC 1080  
DELECT 242

#### COVER NOTE

---

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

date of receipt: 10 November 2021

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

---

No. Cion doc.: C(2021) 7947 final

---

Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 10.11.2021 amending Directive 2014/24/EU of the European Parliament and of the Council in respect of the thresholds for public supply, service and works contracts, and design contests

---

Delegations will find attached document C(2021) 7947 final.

---

Encl.: C(2021) 7947 final



Brussels, 10.11.2021  
C(2021) 7947 final

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 10.11.2021**

**amending Directive 2014/24/EU of the European Parliament and of the Council in respect of the thresholds for public supply, service and works contracts, and design contests**

(Text with EEA relevance)

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

Article 6 of Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC empowers the Commission to adopt delegated acts, in accordance with Article 290 TFEU, for the revision of the thresholds. That Article also provides, in case of time constraints, for the use of the urgency procedure, in accordance with Article 88 of that Directive.

According to Article 6(1) of Directive 2014/24/EU, the calculation of the thresholds is made on the basis of the average daily value of the euro in terms of the Special Drawing Rights, over a period of 24 months terminating on 31 August preceding the revision, with effect from 1 January. Consequently, the calculation of the thresholds cannot start earlier than 1st of September due to data availability. Furthermore, according to Article 6(4) of that Directive, the revised thresholds (in EURO) and their corresponding values in other European Union (EU) national currencies shall be published by the Commission in the Official Journal of the EU at the beginning of November.

In view of the above, and in order to meet the above mentioned deadline, the Commission makes recourse to the urgency procedure for adopting this regulation.

### **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

The Experts Group for Public Procurement was consulted on this Regulation and the accompanying Communication.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

The calculation of the thresholds of the public procurement Directives is a purely mathematical operation and therefore the revision of the threshold as such is merely a technical exercise. It must be carried out every two years in accordance with the terms of the World Trade Organisation Agreement on Government Procurement (GPA). The purpose of the adjustments is to correct for any currency movements between the signatories which would affect the extent of their procurement markets which are open to competition from companies in other signatory countries.

The GPA has a mechanism for recalculating the equivalent value of its thresholds, which are fixed in SDRs, in the currencies of its parties every two years. This mechanism is given legal effect through Article 6 of Directive 2014/24/EU. For reasons of coherence, it is appropriate to align also those thresholds in 2014/24/EU, which are not covered by the Agreement.

COMMISSION DELEGATED REGULATION (EU) .../...

of 10.11.2021

amending Directive 2014/24/EU of the European Parliament and of the Council in respect of the thresholds for public supply, service and works contracts, and design contests

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC<sup>1</sup>, and in particular Article 6(5), second subparagraph thereof,

Whereas:

- (1) By Decision 2014/115/EU<sup>2</sup>, the Council approved the Protocol amending the Agreement on Government Procurement<sup>3</sup> concluded in the framework of the World Trade Organization. The amended Agreement on Government Procurement ('the Agreement') is a plurilateral instrument and its purpose is to mutually open government procurement markets among its parties. The Agreement applies to any procurement contract with a value that reaches or exceeds the amounts set therein ('thresholds') and expressed as special drawing rights.
- (2) One of the objectives of Directive 2014/24/EU is to allow the contracting authorities which apply that Directive to comply at the same time with the obligations laid down in the Agreement. To ensure that the thresholds set in Article 4, points (a), (b) and (c), of Directive 2014/24/EU correspond to the thresholds established in the Agreement, it is necessary to revise the threshold set in that Directive. In accordance with Article 6(2) of Directive 2014/24/EU, the thresholds established in Article 13 of that Directive are to be aligned with the thresholds set out in Article 4, points (a) and (c), of that Directive.
- (3) Article 6(1) of Directive 2014/24/EU requires that every two years the Commission revise the thresholds with the effect from 1 January. Hence, the thresholds for the years 2022-2023 should apply as of 1 January 2022.
- (4) Directive 2014/24/EU should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Directive 2014/24/EU is amended as follows:

---

<sup>1</sup> OJ L 94, 28.3.2014, p. 65.

<sup>2</sup> Council Decision 2014/115/EU of 2 December 2013 on the conclusion of the Protocol Amending the Agreement on Government Procurement (OJ L 68, 7.3.2014, p. 1).

<sup>3</sup> OJ L 68, 7.3.2014, p. 2.

- (1) Article 4 is amended as follows:
  - (a) in point (a), 'EUR 5 350 000' is replaced by 'EUR 5 382 000';
  - (b) in point (b), 'EUR 139 000' is replaced by 'EUR 140 000';
  - (c) in point (c), 'EUR 214 000' is replaced by 'EUR 215 000';
- (2) Article 13, first paragraph is amended as follows:
  - (a) in point (a), 'EUR 5 350 000' is replaced by 'EUR 5 382 000';
  - (b) in point (b), 'EUR 214 000' is replaced by 'EUR 215 000'.

#### *Article 2*

This Regulation shall enter into force the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2022.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10.11.2021

*For the Commission*  
*The President*  
**Ursula VON DER LEYEN**