

The proof of eligibility under public procurement law in a state of flux

Plea for a presumption of eligibility

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Abstract

In public procurement law it is very important that contracting authorities only award contracts to eligible economic operators. In order to be able to evaluate the eligibility of an economic operator as part of the eligibility review, contracting authorities rely on information provided by the economic operator. However, the instruments currently available for proof of eligibility for this exchange of information, particularly the European Single Procurement Document, do not meet the requirements that contracting authorities and economic operators place on efficient public procurement procedures.

Therefore, the aim of the thesis is to formulate a concrete reform proposal on the basis of Directive 2014/24/EU, which aims to make proof of eligibility for public procurement more efficient. The central element of this reform proposal is the introduction of a presumption of eligibility: by submitting their request to participate or tender, all economic operators confirm that they meet all the selection criteria required by the contracting authority in the form of minimum criteria. In order to avoid misuse, an extensive system of incentives and sanctions is provided.