

European Directives on Procurement and Concessions Status of Transposition Process

Directive 2014/24/EU of 26 February 2014 on public procurement, Directive 2014/25/EU of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and Directive 2014/23/EU of 26 February 2014 on the award of concession contracts (the “**EU Directives**”) must, in the most part, be transposed by Member States into national law by 18 April 2016. Below is a table summarising what has already been done and what is expected to be done in the coming months to meet this deadline.

Member States	What has already been done	What will be done in the coming months	Estimated transposition schedule
Belgium	No legislation has yet been adopted in order to transpose the EU Directives.	No bill has yet been submitted to the Federal Parliament in order to transpose the EU Directives.	There is no information yet available as to the estimated date of transposition of the EU Directives.
France	<p>With regard to Directives 2014/24/EU and 2014/25/EU, a decree was adopted on 26 September 2014 and entered into force on 1 October 2014. It mainly relates to the following topics:</p> <ul style="list-style-type: none"> > innovation partnerships > limitation of the minimum yearly turnover that economic operators may be required to have to twice the estimated contract value > impossibility for public authorities to ask economic operators for documents that are publicly available online 	<p>Law no. 2014-1545 dated 20 December 2014 authorises the French Government to:</p> <ul style="list-style-type: none"> > transpose Directives 2014/24/EU and 2014/25/EU into French law > unify/rationalise public procurement rules <p>via an “<i>ordonnance</i>” rather than via a law. This procedure enables the French Government to proceed faster than the usual legislative process.</p> <p>On 22 December 2014, a draft “<i>ordonnance</i>” was published on the French Ministry for the Economy and Finance’s website for consultation. The consultation period will end on 30 January 2015.</p> <p>Pursuant to this law, the French Government will have to adopt the “<i>ordonnance</i>” within nine months of the enactment</p>	<p>With regard to Directives 2014/24/EU and 2014/25/EU, the target is to adopt the “<i>ordonnance</i>” during the first semester of 2015.</p> <p>With regard to Directive 2014/23/EU, the French Government has not decided yet what type of text will be used to transpose this Directive into French law but we understand that it is scheduled to publish this text by December 2015.</p>

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		of the law (i.e. no later than 20 September 2015).	
Germany	<p>In Germany, the Federal Ministry for Economic Affairs and Energy (<i>Bundeswirtschaftsministerium</i>) is in charge of implementing the procurement directives into national law.</p> <p>On 18 November 2014, the Ministry published a paper containing the key points of the legislative reform (<i>Eckpunkte zur Reform des Vergaberechts</i>).</p>	<p>Due to German procurement legislation being dispersed across a number of laws and/or regulations, the implementation of new procurement directives has always proved to be a rather complex and lengthy process. In particular, some of the national procurement provisions are not to be found in parliamentary acts, but in rules established in co-operation between the state and industry and trade associations.</p> <p>According to the Ministry's key points paper, the transposition of the EU Directives will be used to simplify the traditional structure of German procurement law.</p> <p>In particular, a fundamental revision of the Act Against Restraints on Competition (<i>Gesetz gegen Wettbewerbsbeschränkungen, GWB</i>) is envisaged which will become even more central to German procurement practice. The various regulations will be adjusted accordingly with a new regulation being introduced for the transposition of Directive 2014/23/EU on the award of concession contracts.</p> <p>In the months ahead, the Federal Government and the competent legislative bodies (<i>Bundestag</i> and <i>Bundesrat</i>) will be occupied with the details of the legislative reform.</p>	<p>With regard to the transposition of the EU Directives, the Federal Ministry for Economic Affairs and Energy has published the following schedule:</p> <ul style="list-style-type: none"> > Decision of the (Federal) Cabinet on the reform of the Act Against Restraints on Competition (GWB): Spring 2015 > Legislation by the <i>Bundestag</i> and the <i>Bundesrat</i>: Autumn 2015 > Decision of the (Federal) Cabinet on the Regulations: Autumn 2015 > Approval of the <i>Bundesrat</i>: Winter 2015/2016 > Entry into force of the acts required for transposition of the EU Directives: 18 April 2016
Italy	<p>A bill was submitted to the Italian Parliament in August 2014 to authorise the Italian Government to transpose the EU Directives by means of a "legislative decree" (<i>decreto legislativo</i>).</p>	<p>The Italian Parliament has not yet approved the bill that will authorise the Italian Government to transpose the EU Directives and discussions appear to be in a preliminary stage.</p> <p>According to the bill, the current Italian legislation on public procurement and concession (i.e., Legislative Decree no. 163/2006 – "Code of Public Contracts" – and the Decree of the President of the Republic no. 207/2010) will be replaced</p>	<p>The target is to transpose the EU Directives by 18 February 2016 in order to meet the deadline provided for the implementation of the EU Directives at national level (i.e. 18 April 2016).</p>

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		by a new consolidated Legislative Decree composed of no more than 200 Articles, instead of the 600 Articles in the current legislation.	
Netherlands	<p>In the Netherlands, the Ministry of Economic Affairs (<i>Ministerie van Economische Zaken</i>) is in charge of implementing the procurement directives into national law.</p> <p>So far, the Ministry has not submitted any legislative proposals, but it announced that a draft proposal will be submitted for public consultation in the first quarter of 2015, a process that is regularly used for legislative proposals.</p> <p>Following the consultation, the proposal results, possibly amended on the basis of the consultation, will be introduced in the formal parliamentary procedure.</p>	The next step will be the publication of the draft for public consultation, which will indicate how the Government of the Netherlands intends to use the discretionary policy margins left by the EU Directives to Member States. It is likely that an important subject such as this will attract serious input from stakeholders.	Given the fact that the consultation is expected to take place in the first quarter of 2015, and in view of the average duration of the formal legislative process which will likely commence in the second half of 2015, transposition before the deadline of 18 April 2016 may prove to be rather ambitious.
Poland	No legislation has yet been adopted in order to transpose the EU Directives.	<p>No bill has yet been submitted to the Polish Parliament in order to transpose the EU Directives.</p> <p>The Public Procurement Office in charge of the transposition is considering implementing it through an amendment to the existing Act on public procurement law (PPL) or through a new bill on public procurement.</p> <p>The aim of a new act on public procurement law would be not only to implement the EU Directives but also to replace the existing Act on PPL with a clear and coherent regulation.</p> <p>For the above reasons, this could be a relatively time-consuming process and therefore, according to the Polish Public Procurement Office, the final decision in that respect should be confirmed in the first quarter of 2015.</p>	<p>There is no confirmed information yet available on the estimated date of transposition of the EU Directives.</p> <p>Although the Polish Government's website states that the draft of the bill could be submitted to the Polish Government for approval (which is the preparatory step before sending the draft to Parliament) in the third quarter of 2015, the Polish Public Procurement Office, as the authority in charge, is more sceptical.</p> <p>Given that in Autumn 2015 a new parliamentary election will take place in Poland, it is very difficult to estimate how</p>

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			long it will take to adopt the new bill. A further update will be provided in the first quarter of 2015, once the Polish Public Procurement Office makes its final decision and confirms whether the EU Directives will be transposed through an amendment or within the new Act on PPL.
Portugal	No legislation has yet been adopted in order to transpose the EU Directives.	The Portuguese Government's agenda for the coming months will mainly cover issues connected to the regulation of public procurement activity (there will be an administrative entity responsible for regulating the activity but the powers granted to such entity are yet to be defined) and with e-procurement (in order to solve some issues that have been raised regarding temporal stamps and the interoperability of the electronic platforms).	The Portuguese Government aims to meet the deadline for the transposition – which is going to be made through a “decree-law” – but it is yet to be defined whether this implementation is going to determine a deep revision of the Public Contracts Code or not.
Spain	A piece of legislation was approved on 27 December 2013 (Law no. 25/2013) by the Spanish Parliament, already implementing a few of the provisions later incorporated into the EU Directives (e.g. selection criteria of economic operators, introduction of alternative measures to ensure the economic and financial capacity of the operator and measures regarding e-procurement). However, the transposition of the main provisions of the EU Directives is still pending.	The Spanish Government is currently drafting the legislation needed to implement the EU Directives.	On the request of the Spanish Parliament, the Spanish Government has pledged to implement the EU Directives within the time limit established in the EU Directives.
UK	On 19 September 2014, the British Government published the first draft of the Public Contracts Regulations 2015 (which implements Directive 2014/24/EU on public procurement) for consultation.	The British Government will issue and consult on draft legislation implementing Directives 2014/23/EU and 2014/25/EU (which will be transposed once the Public Contracts Regulations 2015 have come into force).	The British Government plans to transpose the EU Directives in three stages. It is expected that the implementing

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	<p>The consultation period ended on 17 October 2014. The consultation was used to address issues which are common to the implementation of the EU Directives.</p>	<p>Following the consultation process, the British Government will issue revised implementing legislation.</p>	<p>legislation for Directive 2014/24/EU on public procurement will come into force in early 2015; the implementing legislation for Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors will come into force in Summer 2015; and the implementing legislation for Directive 2014/23/EU on the award of concession contracts will come into force by April 2016, the deadline by which the EU Directives must be incorporated into national law.</p>