1. Where would you see advantages and disadvantages in public procurement rules enacted at the EU level in the form of a directive(s) or a regulation(s), respectively?

|  |  |  |
| --- | --- | --- |
|  | Advantages | Disadavantages |
| Directive (s) | *common rules for all, flexibility (where allowed)* | *sometimes unclear and difficult to transpose* |
| Regulation (s) | *reduce disparities between member states* | *does not take account of member states differences* |

1. Do you see a need for a separate legal act for utilities and concessions?

*No need.*

1. Generally speaking, is the different scope of application of Directives 2014/23/EU, Directives 2014/24/EU and Directives 2014/25/EU clear and well understood in the practice of contracting authorities and entities?

*In Estonia, these directives have been transposed into a single law. We do not know whether contracting authorities make a difference outside the law.*

1. What are the gaps in the current legal framework that could be filled in by the revision or which aspects need further harmonisation?

*Don't know. An analysis could be made of whether there are ways to reduce the administrative burden.*

1. Where do you see possible room for simplification of rules without undermining the legal certainty?

*E.g. clarification of rules on competitive procedure with negotiation and abnormally law offers.*

1. Is the assessment of exclusion and selection criteria (incl. self-cleaning) centralised (i.a., imposed by national legislature or advised by central bodies) or decentralized (i.a., done by contracting authorities/contracting Entities on a case-by-case basis)? Is the choice having an impact on the litigation (number of cases, potentially conflicting decisions etc)?

*The assessment of exclusion and selection criteria, including selective ones, are centralised (in the Public Procurement Act). Exclusion and* *non- exclusion are contested (there were about 11 disputes on the substance in 2024). Many non-exclusion decisions are contested together with the contestation of the declaration of tender successful.*

1. Are optional exclusion criteria (Article 57(4) of Directive 2014/24/EU) widely/often/seldom/never used by contracting authorities? How difficult is it for them to lawfully exclude a tenderer based on requirements such as ‘appropriate means’ or ‘sufficiently plausible indications’?

*Highly used. The disputes are generally on the proper performance of contracts and making false declarations. It is very difficult for the contracting authority to carry out checks and for the review committee to monitor the contracting authority.*

1. What are the legal issues that contracting authorities/entities face when assessing aspects leading to possible distortion of competition (i.a., abnormally law offers, participation of third country bidders, reliance on subcontractors, etc.), particularly in situations where national law mandates MEAT?? Where do you see any possibilities for improvement?

*There are no clear guidelines for the contracting authority to determine abnormally law offers. Provision of guidelines could improve this situation.*

1. What are the legal issues that have already arisen before your court or review body, or do you foresee in the future, in relation to the sectoral pieces of legislation regulating public procurement, including the Batteries Regulation, Construction Products Regulation, Ecodesign Regulation, Energy efficiency Directive, Net-zero Industry Act, Minimum Wage Directive, Deforestation Regulation, Clean Vehicles Directive, Corporate Sustainability Due Diligence Directive, International Procurement Instrument and the Heavy Duty Vehicles Regulation? In other words, which provisions in these pieces of sectoral legislation are problematic in your proceedings, and where are the possible inconsistencies with the Public Procurement Directives noted or foreseen?

*So far - no problems have arisen.*

1. Any other input and suggestions with a view to a possible revision of the directives?

*No suggestions.*